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March 26, 1980

BY HAND

Howard K. Shapar, Esquire
Executive Legal Director
Nuclear Regulatory Commission
Washington, D. C. 20555

Tom Engelhardt, Esquire
Deputy Executive Legal Director
Nuclear Regulatory Commission
Washington, D. C. 20555

RE: Florida Power & Light Company (St. Lucie Unit No. 2), Docket No. 50-389A

Dear Messrs. Shapar and Engelhardt:

This letter is written to request a conference with you concerning our desire, on behalf of 17 Florida Cities and their Association, 1/ to be allowed to join in the settlement conferences now under way among Florida Power & Light Company, the Antitrust Division of the Department of Justice and the Staff of the Nuclear Regulatory Commission apparently to settle their differences in the above-referenced FP&L nuclear licensing proceeding, and to discuss aspects of the proposed settlement with you. The Cities are public agencies of the State of Florida and should be represented on the government side of the conferences. Needless to say, the public officials in Florida are distressed by their exclusion at the hands of the Federal government. We desire to meet with you to discuss these matters.

We think, in the context of this case, the public interest will best be served if all the interested parties seek to negotiate a conclusive overall settlement. Absent such overall settlement, the Cities will be left to carry on the litigation by themselves, and the result will be to complicate the ultimate disposition of the matter. As a practical matter, promising and

---

1/ The Fort Pierce Utilities Authority of the City of Fort Pierce, Lake Worth Utilities Authority, New Smyrna Beach Utilities Commission, Sebring Utilities Commission and the Cities of Alachua, Bartow, Fort Meade, Gainesville, Homestead, Key West, Kissimmee, Lake Helen, Mount Dora, Newberry, St. Cloud, Starke and Tallahassee, Florida and the Florida Municipal Utilities Association ("FMUA"). Three of these cities are participating in the proceeding through membership in FMUA.

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meaningful negotiations between the Cities and FP&L ceased in the Fall by the unwillingness of FP&L to respond substantively or particularly to reasonable City proposals, evidently because FP&L believes it can come out ahead through splitting the State and Federal government parties.

In the St. Lucie case Florida Cities have alleged, among other things, that FP&L has used the power from its control of nuclear, base load generation and transmission facilities to monopolize power supply and sales markets in Peninsular Florida. Florida Cities have further alleged that FP&L has unlawfully conspired to divide power supply markets in Florida. In this regard, in Gainesville Utilities v. Florida Power & Light Co., 573 F.2d 292, 294 (1978), certiorari denied, 439 U.S. 966, the Fifth Circuit stated:

> "We hold that the evidence compels a finding that P&L was part of the conspiracy with Florida Power Corporation (Florida Power) to divide the wholesale power market in Florida." (footnote deleted) 2/

These allegations have led the Nuclear Regulatory Commission to order a hearing whether the grant of an unconditioned construction permit for St. Lucie 2 would "create or maintain a situation inconsistent with the antitrust laws". Atomic Energy Act, §105(c), 42 U.S.C. §2135(c).

We do not believe that either the public interest or the policies favoring settlement are furthered by splitting State and Federal governmental parties or by permitting a company accused of antitrust violations to separately pursue negotiations with what it perceives to be the weaker party.

These negotiations are all the more disturbing since the NRC Staff is apparently willing to agree to a settlement which ignores entitlements of cities located outside of FP&L's retail service area to nuclear access or of all cities to statewide transmission. It is incomprehensible that the Staff would intentionally undercut the principles of the Gainesville case, cited above, as well as the settlement in United States v. Florida Power Corporation and Tampa Electric Company, U.S.D.Ct., M.D.Fla., Case No. 68-297-T or that it would limit relief to cities adjacent to FP&L's retail service area despite the Fifth Circuit's finding of a division of markets affecting all Florida cities. The Gainesville and Florida Power cases confirm that under the antitrust laws smaller cities should not be limited to dealing with immediately adjacent companies.

1/ The Fifth Circuit termed FP&L's defense as "dangerously close to an admission that it was common practice for the investor-owned companies to gang up on the municipals." 573 F.2d at 301.

Further, the proposed Justice-NRC-FP&L settlement would apparently place onerous terms on small systems seeking to acquire St. Lucie capacity, never before required in settlement agreements before the NRC; the draft proposal that was shown us would go so far as to grant FP&L complete discretion to contract itself from liability in the event that it operates a nuclear facility improperly or illegally. Thus, the price of nuclear access required of smaller systems could be smaller systems' forced agreement to waive legal rights existing under State law. After Three Mile Island the failure to hold a company operating a nuclear plant to any standard of care could not be supported and would itself give rise to antitrust and other NRC Staff concerns.

The exclusion of the cities from negotiations is more disturbing, since it appears that FP&L's South Dade and St. Lucie 2 license applications to the NRC contained false information in connection with Department of Justice antitrust review.

As counsel for Florida Cities, we view the present posture of negotiations with the utmost gravity. We would appreciate an opportunity to discuss it with you as well as the attorneys and consultants on the case at your earliest convenience. We believe it could be helpful if our conference could include economic consultants, and we are prepared to bring ours.

Respectfully,

Robert A. Jablon

Robert A. Jablon
Attorney for Florida Cities

cc: Lee Dewey, Esq.
Joseph Rutberg, Esq.

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April 18, 1980

BY HAND

Sanford M. Litvack, Esquire
Assistant Attorney General
Department of Justice
Antitrust Division
Room 3109
Washington, D. C. 20530

RE: Florida Power & Light Company (St. Lucie Plant, Unit No. 2), NRC Docket No. 50-389A

Dear Mr. Litvack:

This supplements our letter to you of March 26, 1980, in which we requested a conference with you to discuss our request on behalf of seventeen Florida Cities to join in the settlement conference now underway among FP&L, Justice and NRC. We very much regret that you have not responded. In view of subsequent developments, we urgently seek such a meeting and your assistance to protect important public rights.

Since our request for a meeting, Justice Department counsel have sent a joint letter, also signed by counsel for the NRC Staff and FP&L to the St. Lucie Licensing Board stating "that counsel has agreed upon a detailed set of license conditions which are now being submitted for approval to the governmental agencies involved and to the Florida Power & Light Company." As counsel to the Florida Cities, we find it distressing that the Federal Government would negotiate a settlement of a major antitrust case without the presence of counsel for local governments, who are the victim of antitrust violations. We did not receive a copy of this agreement until late yesterday. We are now reviewing it and shall be prepared to discuss it with you. However, in the give and take of negotiations, rights can be damaged irreparably, if those absent from negotiations can only seek to change an agreement already reached. Thus, unless there is careful consideration of the Cities' position, our now seeing the agreement may be of little solace. Nevertheless, we shall, of course, review the proposal carefully and comment as soon as possible.

It has been quite apparent that, faced with explicit findings of anticompetitive activity 1/, FP&L has adopted a conscious litigation/settlement strategy to divide the governmental parties and, indeed, to seek settlement of cases with the individual cities without notifying their counsel of record.

Our clients have alleged, both at the NRC and at the District Court (Ft. Pierce Utilities Authority, et al. v. Florida Power & Light Company, U. S. District Court for the Southern District of Florida, Case No. 79-5101-CIV-JLK), that FP&L has violated Sections 1 and 2 of the Sherman Act through, among other things, concerted refusals to deal and conspiring or combining to restrain trade. These allegations must be deemed well-founded. 2/

1/ Gainesville Utilities v. Florida Power & Light Co., 573 F.2d 293, cert. denied, 439 U.S. 966 (1978), Florida Power & Light Co., FERC Docket No. ER78-19, et al., Opinion Nos. 57 and 57-A (August 3, 1979 and October 4, 1979).

2/ For example, the Justice Department Brief in Florida Power & Light Co. (St. Lucie Plant, Unit No. 2), NRC Docket No. 50-389A, states:

> "In the present case [St. Lucie 2], there is little doubt that sufficient allegations have been made against FP&L to constitute a situation inconsistent with the antitrust laws that would be created or maintained by the license activities, if they are proven. FP&L has allegedly denied access to nuclear units to virtually all municipally-owned competing electric systems, generally refused to wheel, refused specific wheeling requests, attempted to induce other systems to refuse to wheel, placed unlawful restrictions on wholesale power contracts, refused to sell wholesale power on over half a dozen occasions, preconditioned the sale of wholesale power on anticompetitive terms, subject competitors to a price squeeze, engaged in illegal territorial agreements, and otherwise denied competitors access to coordinated operation and development in an attempt to acquire those competing systems. Furthermore, the licensing and appeal boards had before them a substantial amount of documentary evidence which demonstrated that most of the above-noted allegations have a substantial basis in fact and are not frivolous . . . . "

The Fifth Circuit has expressly found law violation by the Company:

> ". . . [W]e hold that the evidence compels a finding that P&L was part of a conspiracy with Florida Power Corporation (Florida Power) to divide the wholesale power market in Florida . . . This correspondence [between high executives of Florida Power and FP&L] . . . points so strongly to the existence of a conspiracy that 'reasonable men could not arrive at a contrary verdict. . . . ' Boeing Co. v. Shipman, 5 Cir., 1969, 411 F.2d 365, 374 (en banc). In fact, the letters and internal memoranda border on a blatant agreement to divide the market." (footnotes omitted.)

Further, the Federal Energy Regulatory Commission has held (Florida Power & Light Company, Opinion No. 57, Docket No. ER78-19, et al., August 3, 1979):

> "On the basis of our analysis of the record before us, we conclude that FP&L's proposed tariff restrictions would eliminate the only practical source of base-load power or energy to competing utilities within the markets dominated by the Company. Furthermore, the proposed restrictions would appear to create the potential for additional anticompetitive effects by inhibiting the formation of new distribution utilities within these markets. FP&L has failed to satisfactorily demonstrate countervailing public interests that warrant approval of any of these proosals except for the one which would provide separate partial requirements service . . .
>
> The proposed restrictive provisions are anticompetitive, we find no countervailing reasons for their implementation, and they are to be deleted."

Also, the Federal Energy Regulatory Commission stated (Florida Power & Light Company, Opinion No. 57-A, Docket No. ER78-19, et al., October 4, 1979):

> "In our decision we found FP&L's proposals were unjust and unreasonable under the standards of §§205 and 206 of the Federal Power Act, particularly because of their anticompetitive effects . . . . The Company has raised no legal or factual considerations not previously considered and we shall deny the application [for rehearing]."

One of the essential settlement issues, according to our understanding, was whether relief will be effectively available to all cities or just those cities within the perimeter of FP&L's retail service area. Apparently, the Justice Department attorneys are willing, for purposes of settlement, to limit relief to the latter and, further, to limit transmission rights to exclude

resolving transmission problems on a Peninsular Florida basis. We, of course, were not at Justice Department-FP&L negotiations to explain why such limited relief would maintain institutional barriers against competition in wholesale power supply.

You are reported in the Legal Times of Washington, Monday April 7, 1980, pp. 24-25 as being concerned about "monitoring compliance" with antitrust decrees. The Fifth Circuit has found that FP&L was part of a conspiracy to divide wholesale power markets, but unless the proposed settlement is corrected, the Justice Department would apparently condone FP&L's limiting its dealings to smaller utilities near its retail service area and other institutional arrangements which reinforce the pattern found to be illegal by the Gainesville Court. This is especially distressing in light of the Justice Department's successful consent decree enjoining utilities' refusing to deal outside their service area. United States v. Florida Power Corp. and Tampa Electric Co., U. S. District Court, D. Fla., Case No. 68-297-T.

Under Section 105 of the Atomic Energy Act, 42 U.S.C. §2135, the NRC must make a finding whether the activities under the proposed license will "create or maintain a situation inconsistent with the antitrust laws." Your speech quoted above shows concern that the Division support "the public interest on key questions of law presented in private cases." Were the Department to represent to the NRC that its proposed settlement resolved the "situation inconsistent", it could potentially injure the cities position in district court. Such injury would result from a settlement contrary to both a previous Department position in the Florida Power Corp.-Tampa Electric case and the recent Fifth Circuit holding in the Gainesville case.

As an illustration of FP&L's attempts to create division among the cities and foreclose their legal representatives from participating in management negotiations, we note that on April 1, 1980, without notice to this law firm, Robert J. Gardner, FP&L Vice President, entered into an exchange of correspondence with Mr. Ewell E. Menge, Director of Utilities for Ft. Pierce Utilities Authority, providing, inter alia, that Ft. Pierce "will withdraw as a plaintiff in Civil Act No. 79-5101-CIV-JLK, will withdraw its intervention in the Nuclear Regulatory Commission antitrust hearing, and will withdraw its request for a Section 105(a) hearing before the NRC."

Ft. Pierce's withdrawals are apparently in consideration of the settlement of unrelated FP&L-Ft. Pierce litigation involving Ft. Pierce's Water Division, in which a State court trial was scheduled to commence April 2nd, and in which FP&L was seeking some $350,000 in claims, including claims for Ft. Pierce's contribution of the construction costs of a water line to St. Lucie Nuclear Unit 1, where the line is presumably part of FP&L's electric utility rate base and the facilities are encompassed in NRC's construction permit and operating license.

On April 4, 1980, FP&L filed a Joint Stipulation of Dismissal with Prejudice signed by FP&L's attorney of record and Ft. Pierce's City Attorney.

We are the attorneys for Ft. Pierce for its NRC matters, and are in the process of making an inquiry into all the circumstances involved in the exchange of letters in order to determine the proper course we must take to discharge our obligations as attorneys. Our present, preliminary understanding is that FP&L initiated the negotiations by a telephone call on Monday, March 31, 1980, from Mr. Robert J. Gardner, FP&L Vice President and an attorney, and that Mr. J. T. Blount, attorney, represented FP&L in the negotiations. FP&L attorneys never contacted us as attorneys of record with regards to their intention to negotiate a settlement. We do not know what steps they may have taken to assure themselves that we had been informed of the proposed settlement, and indeed Mr. Blount appears to have postponed serious negotiations with Ft. Pierce until shortly before trial in the water line case, at which time he pressed Ft. Pierce for immediate settlement of the water case, the NRC cases, and the antitrust case against FP&L.

Moreover, in the last few days the same Mr. Gardner appears similarly to have attempted to initiate NRC settlement talks directly with Key West's manager without notifying this firm.

We believe that these constitute further examples of FP&L's determined efforts and intentions to refuse to deal with the intervenor group of cities through their designated counsel and, by divisive means, to deprive these cities of a fair opportunity to adjudicate or settle these matters through their chosen representatives. We submit to you that FP&L's exclusion of the seventeen cities throughout its settlement negotiations with Justice and the NRC, even to the point of their conclusion, is part of the same program. We deeply feel that FP&L's divisive program has inevitably been encouraged by your Department's willingness to negotiate without FP&L's letting the Cities attend your negotiations at any stage.

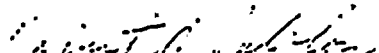
We deem this issue of extreme importance because the procedures adopted by FP&L not only interfere with our proper representation of our clients and the protection of our clients' rights, but also interfere with advising the Justice Department and the NRC in a timely manner of inadequacies in FP&L proposals. Apparently, because of FP&L-Justice Department staff confidentiality agreements, the Cities (and their attorneys) have not seen the latest settlement drafts until after agreement was reached, even though Cities are parties to the case and parties in interest.

The present procedure of giving the Cities only a last pass at settlement between FP&L and NRC staff, after agreement, does not serve the public interest. Yes, the Cities can point out outrageous provisions; but otherwise Cities face an impossible task and the public interest suffers when, in effect, Cities are thrown the burden of disproving and upsetting already negotiated agreements separately negotiated by FP&L, Justice and NRC Staff. The knowledgeable and interested views of Cities deserve early and equal consideration, which they have not received under present negotiation procedures in this case. We fear and expect that such procedures will lead to a hardening of disparate positions between FP&L and Cities, which in turn will lead to a lengthy trial rather than a timely and just settlement of this case.

Finally, we are especially disturbed that the NRC would exclude the Cities -- even Gainesville, a successful antitrust complainant against FP&L -- from negotiations with a Company against whom both the Fifth Circuit and the Federal Energy Regulatory Commission has made findings of anticompetitive conduct.

There was a plain public interest in having the Cities participate in negotiations to assure that the "situation inconsistent" is resolved. Since that was not done, we desire an opportunity to discuss these serious concerns with you to assure that the Cities have a belated opportunity to affect the settlement process and to avoid serious economic injury to them contrary to basic antitrust precepts. As counsel for the Cities, we are most anxious to assure that, in settling the NRC case, the Department does not injure the Cities' legal position before the District Court.

Respectfully submitted,



Robert A. Jablon
Attorney for Florida Cities

cc: Robert Fabricant, Esq.
Janet Urban, Esq.

APPENDIX B

"Reply of Florida Cities to Responses of Florida Power and Light Company and Nuclear Regulatory Commission Staff"

Sun., Sept. 5, 1976, Vero Beach, Fla., PRESS-JOURNAL

FLORIDA POWER & LIGHT COMPANY

An open letter to every Vero Beach resident from Florida Power & Light Company's Ralph Mulholland.

September 4, 1976

Dear Vero Beach Resident:

On September 3, 1976, Florida Power & Light Company informed the Public Service Commission of our intention to file for rate relief. When you first heard or read that Florida Power & Light Company was asking for rate relief, two questions probably popped right into your mind:

What will this do to my electric bill if we vote to sell our electric system to Florida Power & Light Company?

Why does this come *now*, at the last minute, before the referendum?

I'd like to ease your mind on both these points with quick answers.

First, there will be no effect on your electric bill at all for quite a while. It generally takes months for the Public Service Commission to study and act on a rate request. We will be well into 1977 before a final decision is made.

Meanwhile, if you approve the sale in Tuesday's vote and it is concluded in the near future, you will begin enjoying Florida Power & Light Company's present rates—which are, as you know, considerably lower than what you now pay.

If our rate request is eventually granted by the Public Service Commission, the electric bills of *all* Florida Power & Light customers will rise. *But you will still pay significantly less* when Florida Power & Light Company provides you electric service than if Vero Beach continued to operate the electric system.

As for the timing: Friday, September 3, was the earliest possible day we could prepare all the details and paperwork for the Public Service Commission. In fact, we didn't expect to be ready until the end of September.

We wanted you to have all the facts before you vote, so a lot of people at Florida Power & Light Company worked overtime to speed things up. Getting the news a few days before the vote may not be ideal... but it sure beats getting the news *after* the vote.

This worried me a lot because I knew your referendum was coming on September 7. I asked our people to really put the pressure on—to work nights and weekends if necessary to get our request to the Public Service Commission ready *before* September 7. They did a great job. Within a few minutes after we filed our request with the Public Service Commission, I was able to pass the information on to your City officials and your local news media.

To sum it all up, we did everything we could to give you the news before the referendum. Even if Florida Power & Light's full request is granted, you'll still pay less for Florida Power & Light service than you'd pay if Vero Beach continued to operate the electric system.

We sincerely believe the proposed sale will be a good thing—good for Vero Beach electric customers, and good for the City itself. If it is approved, we pledge to deliver you reliable electric service at the lowest possible cost. We hope you will give us the opportunity to keep this promise.

Sincerely,
FLORIDA POWER & LIGHT COMPANY

R.G. Mulholland
Senior Vice President

This message was paid for by the stockholders of Florida Power & Light Company.

Now, I'd like to give you more of the details because you're entitled to a full, frank explanation. To give you an idea how the vote and our rate request might affect your electric bills, here are some figures based on a residential customer in Vero Beach who uses 1000 kilowatt hours per month. First, we made a comparison using the average monthly bills this customer would have paid over the first eight months of 1976.

AT PRESENT RATES

VERO BEACH	FLORIDA POWER & LIGHT
$47.58	$38.40

Vero Beach rates are 24% higher than Florida Power & Light Company.

Now suppose during 1977 the Public Service Commission approves Florida Power & Light Company's request for rate relief in full. Compare the average bill based on that with what this same customer would pay if Vero Beach continued to operate the electric system. To make this comparison realistic, we must add to the Vero Beach rate the 12.7% increase which its accounting firm; Ernst & Ernst, informed the City would be necessary:

AFTER RATE INCREASES

VERO BEACH	FLORIDA POWER & LIGHT
$53.60	$46.60

This still indicates Vero Beach rates to be 15% higher than Florida Power & Light Company.

All these figures include local utility taxes, fuel adjustment and franchise fees.

We expect to have a new nuclear generating unit at St. Lucie in service in the near future. This should bring annual fuel savings of more than $100 million that will be passed directly to our customers through a reduction in the fuel adjustment, which has been reflected above.

So there you have it: even with Florida Power & Light Company's full rate relief request approved, you will still realize a considerable saving.

Why does all this come just now, with the referendum only a few days away? All through the negotiations with Vero Beach we have been completely frank about the possibility of a rate increase.

We pointed out that Florida Power & Light Company faces the same tremendous cost pressures that are squeezing every electric utility in Florida. Florida Power & Light Company is paying the inflated costs of 1976 with income from a 1974 rate structure.

Florida Power & Light Company rates have traditionally been among the lowest in Florida. We are confident that in the long run, when the other Florida electric utilities adjust to meet rising costs, you'll find Florida Power & Light Company rates near the bottom of the list.

It's true that we didn't suddenly decide on the morning of September 3 to ask for rate relief. All year we've said publicly that we were seriously concerned about rising costs and the possibility of a rate request has often been considered.

When we couldn't postpone the inevitable any longer, we started preparing the facts and figures we need to support our request. It's a big and complicated job and, as I said before, it looked like we couldn't be ready until the end of September.

APPENDIX C

212164

GUIDELINES FOR POWER GENERATION FROM MUNICIPAL SOLID WASTE OPERATIONS

Background -

Increasing interest is being displayed by local governments in processing solid waste as opposed to disposing of it in land fills. The higher cost of processing can be offset by disposing of reclaimed materials and by combusting the waste, and generating and selling electric power. Several local governments have sought FPL involvement in the planning of solid waste processing systems which would incorporate power generation. Dade County is now out for bids on a system and at least two contractors are seeking to negotiate with FPL for commitments regarding power production for incorporation by the contractor in bids to the County.

The amount of direct benefit is small because solid waste can generate only a small fraction of our power needs. The principal value in FPL's participation is:

1. Augment community and customer resources by displaying corporate responsibility in assisting the solution of a pressing local problem.
2. Gain experience and insight into the potential for profitable future increased involvement in waste processing.
3. Deter the competitive threat of municipal generation.

5. If FPL must finance the T-G plant, there must be provision for non-recovery of fixed charges due to poor availability of the steam.

6. In the event contractors to the municipality for waste processing systems seek commitments from FPL concerning power generation, it is important that such commitments be consistent as between contractors and as between municipalities.

7. Close coordination should be maintained with the local government at all times, particularly when dealing with contractors or bidders to insure that FPL's overall relationship with the local government is not impaired.

8. The negotiations with either local governments or contractors should be the responsibility of the Division General Manager who, in turn, should consult with the Group Vice President to insure consistency and conformity to policy.

9. Assistance in negotiations should be obtained from Power Resources, Power Plant Engineering, General Engineering, and System Planning in regard to contract provisions on technical matters and for cost information. The Treasurer shall provide assistance in economic and financial analysis.

Guidelines for Power Generation
from Municipal Solid Waste Operations
(continued)

212165

The following are suggested guidelines for use in planning in the area of our involvement with waste disposal power generation:

1. FPL should own and operate the electric power generation facilities including:

- Turbine-Generator
- Turbine-Generator auxiliaries
  - Lube-oil system
  - Hydrogen system
  - Controls
- Turbine operator foundation
- Condenser
- Condenser cooling system
- Cooling system makeup and conditioning system
- Generator and exciter controls
- Generator bus
- Power transformer
- Switchyard

2. FPL should pay for steam generated by the municipally-owned and operated boiler system. FPL should not be responsible for waste collecting, handling, processing, or burning at this time. FPL should not be responsible for noise, odor, or emissions from other than the T-G plant.

3. The payment for steam should be such that the resulting bus bar cost of power to FPL compares favorably with average bus bar costs from existing plants, and is such that the resulting bus bar cost is competitive to what the municipality's cost would be if it generated the power.

4. FPL should seek financing of the T-G plant through either the municipality or the waste plant contractor. Repayment of the capital cost can be accomplished by an additive to payment for steam

APPENDIX D

Exhibit 12 (GT-11) page 1 of 2

COMM - EXEC

JUL 29 1976

FLORIDA POWER & LIGHT COMPANY

INTER-OFFICE CORRESPONDENCE

100310

LOCATION Miami, Florida
DATE May 12, 1976

COMES TO (J. K. Daniel on 7/28/76)

TO Memo to File

FROM W. E. Coe

SUBJECT: Vero Beach Economy Interchange
Meeting of May 11, 1976

An interconnection contract was signed between FPL and CVB on November 1, 1971. The actual final interconnection was completed on January 23, 1974. In January 1975, FPL and CVB, by mutual consent, started engaging in economy interchange, mostly during off-peak hours and weekends. In the first five months of 1975, CVB's share of the savings in the economy transactions amounted to $17,561. Economy transactions between FPL and CVB were stopped during the summer due to the price of available capacity. CVB did not request any further economy interchange in 1975. Thus far in 1976, there have been economy interchange transactions on only one day, February 24, when FPL sold to CVB 14,000 kwh at an average price of 20.3 mills/kwh.

A meeting was held in Vero Beach on May 11, 1976, at Mr. John Little's request. Those in attendance were:

Messrs: John Little - City Manager of Vero Beach
Fred Gossett - Plant Manager of Vero Beach
Schuller Massey - Asst. Plant Manager of Vero Beach
C. N. Whitmire - Manager - System Operations - FPL
K. S. Buchanan - Staff Consultant - Power Supply - FPL
W. E. Coe - Director - Power Supply - FPL

During the course of the meeting, Mr. Little reported an offer that had been made to him by OUC to sell non-firm power at 19 mills/kwh, and would FPL deliver that energy across our system. It was pointed out to Mr. Little that FPL had no filed rate for such a delivery, and in the second place, FPL would be able to sell energy during many hours of the day at a rate equal to or lower than 19 mills/kwh.

A review of the economy transactions with JEA, OUC, Lake Worth, and Ft. Pierce over the past few months pointed out that our production costs were between 16-21 mills/kwh. It was pointed out that with CVB having production costs in the range of 23-26 mills/kwh, their purchase cost would range between 19.5-23.5 mills/kwh. Therefore, the cost of economy energy would be less than the 19 mills/kwh energy from OUC plus appropriate delivery charge.

Exhibit # 12 (GT-11) p. 2 of 2 pg 100341

It was again pointed out that FPL has been doing economy interchange with JEA, OUC, Lake Worth, and Ft. Pierce in varying amounts for the past year, but that CVB had not wanted nor requested energy on an economy basis per their operating personnel during the past year.

The conclusion of the meeting was that Messrs. Gossett and Massey would, as time permitted, calculate their incremental production costs at various levels of generation and contact FPL as to the availability of economy energy. It was generally felt that with the new capacity being installed on the FPL system, that economy energy at a reasonable rate would be available.

K S Buchanan

for W. E. Coe
Director of Power Supply

WEC/ayg

Exhibit 12 (GT-12) page 1 of 2 7/28/76 JKD

100295

FPL'S RESPONSE TO "REFUSAL TO WHEEL FOR VERO BEACH"

FPL representatives had conversation with Mr. Little of Vero Beach in the latter part of March or early April at which time Mr. Little indicated he could possibly obtain some "dump" power on an "if or when available" basis from Orlando Utility Commission (OUC) and questioned what provisions and at what costs could FPL utilize its transmission lines to transmit such power.

It was explained that FPL is under the jurisdiction of the Federal Power Commission and that any agreement concerning such transaction would have to be filed with the FPC and receive their approval and this could be a time consuming process. Moreover, in order to arrive at the basis for costing such service, studies would have to be conducted to assure that reasonable charges would prevail. Again, these studies would be time consuming.

As put to FPL the request was for an almost immediate response which would have been impossible. FPL suggested since there was an existing agreement between Vero Beach and FPL for the interchange of power under various situations that possibly Vero Beach could receive the needed energy.

FPL'S RESPONSE TO "REFUSAL TO WHEEL FOR VERO BEACH

100296

at comparable costs under this agreement and not be subject to the added costs associated with transmission service. FPL further suggested that representatives from FPL would be glad to meet with Vero Beach to determine what would be the most appropriate arrangements to provide such service. Three representatives from FPL's Power Supply Department met with Mr. Little and two Vero Beach Power Plant representatives in May. At this meeting it was verified that FPL could supply the requested energy at comparable costs to those previously quoted. Vero Beach representatives indicated they would make some calculations relative to their operating costs and contact FPL if they wish to pursue the suggested arrangements.

FPL did not receive any official request for transmission of power from OUC, nor to my knowledge receive any indications that Vero Beach wished to pursue FPL's suggested alternative.

APPENDIX E

July 28, 1977

Mr. Marshall McDonald, President
Florida Power & Light Company
P. O. Box 013100
Miami, Florida 33101

Re: Settlement of NRC
Dockets Nos. P-636-A
and 50-389A et al.

Dear Mr. McDonald:

The Intervenors have long felt that the litigation between our systems is unfortunate. Ultimately, all Florida electric utilities must be dedicated to serve Florida Ratepayers with reliable service at the lowest reasonable cost. These ends can be best achieved through cessation of litigation and through cooperative effort to finance and build necessary generation and transmission facilities and the implementation of appropriate power pooling arrangements. The Intervenors, therefore, make the following proposal for settlement of the NRC cases in Dockets Nos. 50-335A, 50-389A, 50-250A, 50-251A and P-636A. They believe that the proposal is appropriate and economically beneficial to all parties on its own merits. The proposal is, of course, subject to the entering into of legal agreements resolving ancillary matters, and obtaining all necessary approvals, including those from city authorizing bodies. This proposal represents a combined effort of the Intervenor Group to provide a basis for agreement. We are prepared to consider any objections, modifications or counter proposals of FP&L.

I. Participation in FP&L Nuclear Units

1. Existing Plants - With respect to the existing Turkey Point 3 and 4 units and the St. Lucie 1 unit, the Intervenors propose to acquire a 13.7% undivided ownership interest in these units jointly or severally, assuming all of the costs, burdens, and responsibilities of ownership. In order to achieve this proposed purchase, the Intervenors would pay Florida Power & Light Company, on closing, 120% of the gross plant investment in the facilities plus a proportionate share of the nuclear fuel in the reactor at cost. The Intervenors estimate, based upon book plant investment figures shown in FP&L's Form 1 reports, that the acquisition of a 13.7% ownership share of Turkey Point 3 and 4 under the above described cost formula would provide the Company with $42 million of capital plus the investment in nuclear fuel. On a dollars-per-kilowatt basis for this undivided ownership share of 13.7%, the Intervenors estimate that, as compared to the net plant investment in these two units after deducting accumulated deferred federal income taxes, this would provide the Company with approximately 172% of its

present net plant investment per kilowatt investment in these two units. Based upon published information, it is our understanding that repairs and modifications to these two units are estimated by the Company to require additional capital investment of some $380 million. As joint owners, the participants would be responsible for a 13.7% share of these costs, or an additional $52 million. If the final estimated cost of modifications is in excess of such amounts, we would have to reexamine the appropriateness of basing our purchase offer on the original book cost instead of the depreciated current book cost.

With respect to St. Lucie 1, the Intervenors' proposal is similar; that is, 13.7% ownership interest at 120% of the gross plant investment in the facilities plus nuclear fuel material at cost. We estimate, based on FP&L's per books figures, that the acquisition cost of the physical facilities at St. Lucie 1 under this proposal would provide the Company with in excess of $77 million of additional capital, plus the proportionate investment in nuclear fuel material. As of the end of 1976, the Company reported the balance in Accounts 120.1 through 120.5 and 157 for nuclear fuel materials in excess of $85 million. Our purchase of a 13.7% ownership share would give you in excess of $11 million of additional capital, bringing the total to in excess of $185 million. These amounts of new capital from outside sources could materially assist FP&L in meeting its construction requirements and the requirements to make the modifications and repairs at the Turkey Point 3 and 4 plants, thereby alleviating the burden of such financing to FP&L's ratepayers.

As an alternative to the above proposed ownership share in the units, if FP&L's position is to maintain an absolute ownership interest in the existing plants, the Intervenors would enter into a 13.7% unit purchase from these units, Turkey Point 3 and 4 and St. Lucie 1, based upon the Company's actual embedded cost and appropriate levelized cost of service basis over the balance of the life of these units. They believe that a unit sale would be less advantageous to you, as well as to the Cities, since it would not provide FP&L with outside capital to aid your construction program. Under both the ownership interest or unit power purchase alternatives, the Intervenors would be willing to commit to payments based upon principals that would go back to the original undepreciated cost of the plants.

2. St. Lucie No. 2 - With respect to the St, Lucie 2 plant, which is presently under construction, the Intervenors would acquire an ownership share of this unit of approximately 13.7%. With respect to the acquisition cost, the Intervenors would propose to pay their proportionate share of all of the costs of construction and ownership including, at the date of closing on St. Lucie 2, a proportionate share of the construction work in progress as of that

date and a proportionate share of any nuclear fuel material acquired for that unit. With respect to the proposed acquisition of St. Lucie 2, the 13.7% share of the construction work in progress as of December 31, 1976, would provide the Company with approximately $16 million of additional capital; Intervenors' share of the estimated additional cost to complete St. Lucie 2, of $732 million, would provide the Company in excess of $100 million.

This would bring the total investment by the Intervenors in the existing plants, Turkey Point 3 and 4 and St. Lucie 1, based upon book figures and the Company's estimates to complete St. Lucie 2, to something in excess of $300 million.

3. Additional Units - We do not know the current status of the South Dade or other FP&L planned nuclear units. However, Intervenors would be willing to consider purchase of a proportionate share of planned future FP&L units. They believe that true coordinated generation, both nuclear and non-nuclear, would be in the overall best interests of all systems.

4. Purchase of Additional Capacity and Sale Back to FP&L - The Intervenors would desire to purchase an ownership share in the existing units, Turkey Point 3 and 4 and St. Lucie 1, or in St. Lucie 2, in excess of the 13.7% share proposed and to sell such excess capacity back to the Company on some basis that would be a reducing amount and would not jeopardize the tax exempt status of the municipal Intervenors' financing. The Intervenors would make such sale-back of excess energy power and energy to the Company on a split-the-savings basis between the Company's cost of money and the Intervenors' cost of money.

5. Sales of Replacement Capacity from the Intervenors to FP&L - With respect to the existing units, a 13.7% share of the net capability of the units amounts to approximately 292 MW of capacity. The municipal Intervenors will commit to sell back to FP&L a like amount of capacity from generation on the Intervenors' systems at the Intervenors' actual embedded cost of such capacity. This would represent a considerably lower cost of capacity to FP&L than its continued ownership costs of the existing units, far lower than the cost of the capacity from these units that the Intervenors have proposed herein above and far lower than the cost of new fossil fueled capacity to FP&L. The Intervenors will commit to sell such system capacity back to FP&L in proportion to the capacity acquired directly, or with respect to any unit power purchases from the existing units.

6. The above stated proposal for acquiring an ownership interest in the FP&L nuclear plants and sales of capacity to FP&L is based upon and is dependent upon FP&L's support of legislation that will permit the formation of joint municipal agencies empowered to acquire, finance and own such undivided ownership share in the

Company's nuclear units, which will allow all municipal Intervenors to finance such ownership share. A sample draft of such proposed legislation is attached as Exhibit A.

II. Firm Partial Requirements Wholesale Service

With the sole exception of Key West, all of the Intervenors are presently electrically interconnected through the Florida Transmission Grid to the system of Florida Power & Light Company. The Intervenors propose that, pursuant to an appropriate filed tariff with the Federal Power Commission (either the existing SR-1 tariff or some other appropriate tariff for firm partial requirements service) the Intervenors individually, or acting jointly through a municipal power agency, would be entitled to purchase such service from the Company. The Intervenors would be willing to contract for such service, pursuant to a filed tariff, with respect to rates and terms and conditions including contracted quantities and appropriate notice provisions for the initiation or termination of such service. In addition, to the extent that such service would create a shortage of capacity on the FP&L system, the Intervenors are willing to sell to FP&L capacity installed on the Intervenors' combined systems.

III. Integrated Power Pool

In order to appropriately utilize their existing generating resources and those proposed herein to be acquired or purchased from FP&L, the Intervenors propose that FP&L cooperate with the Intervenors and all of the other electric utilities in Peninsular Florida in the establishment of a fully integrated power pool. The function of such pool would be to achieve benefits as follows:

(a) Centralized economic dispatch of all generating units in Peninsular Florida and after-the-fact accounting with respect to automatic economy transactions and other pool transactions involving such units.

(b) Equalized reserves and appropriate planning to avoid either excessive or deficient reserves for Peninsular Florida.

(c) Economy energy transactions on an hour-by-hour centrally dispatched basis utilizing after-the-fact accounting. (Upon establishment of the pool, such benefits should be automatic.)

(d) Short-term firm power exchanges so as to permit maintenance of facilities.

(e) Long-term firm power exchanges so as to permit coordinated generation planning on a single-system basis.

(f) Secondary (surplus) energy sales whereby direct exchanges between two systems in the pool could be made within the context of pool agreements on the basis of a posted price of energy from one system with lower cost to the other system having higher costs during given hours of the day or periods during the year.

(g) Coordinated joint planning of future generating and transmission facilities in Peninsular Florida on an optimal, single-system planning basis.

IV. Transmission

The Intervenors propose that with respect to any and all of the above described transactions, i.e., ownership shares in nuclear units, unit power purchases, firm partial requirements service, and the transactions pursuant to an integrated power pool, that FP&L recognize that all systems in Peninsular Florida have rights of access to the state transmission grid under reasonable terms and conditions. Specifically, the Intervenors propose that FP&L agree to file a tariff for joint transmission rates in Peninsular Florida similar to that proposed by the Utilities Commission of New Smyrna Beach in FPC Docket No. ER77-177. In addition, FP&L should agree to recognize that systems having the option to make direct ownership investments in the Peninsular Florida transmission system proportionate to the loads placed thereon for any or all of the above transactions, thereby avoiding any charges to recover annual carrying charges on the investment in transmission facilities by others.

The above proposal is intended to provide a framework to allow for settlement of outstanding differences between Florida Power & Light Company and the Intervenor systems. Acceptance of these proposals should create a climate for future cooperation to the benefit of ratepayers of all systems. We hope that you will give this matter your serious attention so that discussion can commence to implement these proposals as stated or modified as may be desirable.

Very truly yours,

Harry C. Cuff, Jr.

Harry C. Cuff, Jr., Chairman
Intervenor Steering Committee

Robert A. Jablon

R. A. Jablon
Attorney for Intervenors

cc: J.A. Bocknight, Jr.
HCL:RAJ:vc
Attachment

Florida Legislative Reporters, Inc.
P. O. BOX 715
Tallahassee, Florida
32301

[illegible]
President

[illegible]

Mrs. Peggy Gridley,
Office Manager

HOUSE BILL 1400 BY Andrews

Companion Bill: Senate Bill 665 by MacKay.

A bill to be entitled

An act authorizing the creation of a joint power authority or authorities for the purpose of planning, financing, acquiring, constructing, owning, managing, operating, and utilizing electric energy generation and transmission facilities and purchasing or selling, at wholesale, the electric energy or capacity produced by electric power supply projects; providing for the structure of such authorities, their powers, membership, creation, and dissolution; authorizing such authorities and public electric utilities to participate in joint electric power supply projects with investor-owned electric utilities and rural electric cooperatives, by joint ownership, contract for the purchase or sale of electric energy or capacity, or otherwise; providing principles for construction of this act; and providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Definitions.--When used in this act:

(1) The term "electric power supply project" shall mean any and all facilities, including all equipment, structures, machinery, and all tangible and intangible property, real and personal, necessary or convenient for the generation or transmission of electrical energy or both, including any fuel supply or source useful for such a project.

(2) The term "public electric utility" shall mean any municipality, authority, commission, or other public body which owns, maintains, or operates an electrical energy generation, transmission, or distribution system within the state of Florida.

(3) The term "authority" shall mean a joint power authority created pursuant to this act.

Section 2. Creation of authorities.

(1) Any two or more municipalities which are served at retail in whole or in part by an electrical energy distribution system of a public electric utility may by joint or concurrent resolution or ordinance create a joint power authority, which shall be a public body corporate, to exercise the powers and perform the functions provided in this act.

(2) The governing body of an authority shall consist of a board of commissioners. Each member municipality shall appoint one (1) commissioner. Each commissioner shall have at least one vote and may have in addition thereto such additional votes as the member municipalities shall determine. Each commissioner shall serve at the pleasure of the appointing authority. The members may provide for public officials of the members to serve ex officio as commissioners in addition to their other public duties as officials of the members.

(3) Each authority shall have the following powers:

(a) To plan, finance, acquire, construct, purchase, operate, maintain, use, share costs of, own, lease, sell, dispose of, or otherwise participate in any electric power supply project or projects within the state of Florida.

(b) To purchase from or sell to any electric utility within the state of Florida, at wholesale, the electric energy or capacity or both produced by an electric power supply project or projects, or any portion thereof.

(c) To fix, establish, revise, maintain, charge, pay and collect rates or other charges for services provided or benefits derived or rendered under this act.

(d) To exercise all powers of eminent domain for the acquisition of property for the purposes provided in this act, under Chapters 73 and 74, Florida Statutes, or as may otherwise be provided by law.

(e) For the purpose of financing or refinancing the cost of an electric power supply project or projects, to exercise all the powers in connection with the authorization, issuance, and sale of bonds as the same are conferred upon municipalities by Chapter 159, Part I, Florida Statutes. For this purpose, all of the privileges, benefits, powers, and terms of Chapter 159, Part I shall be fully applicable to the authority; provided that nothing contained therein shall limit or restrict in any manner the right of the authority to effect an electric power supply project outside the boundaries or corporate limits of any public electric utility or member municipality. For the purposes of this act, an electric power supply project shall be a project within the definition of such term in subsection 159.02(4), Florida Statutes.

(f) To exercise all other powers necessary and incidental to the full and complete exercise of the general powers prescribed in this act; provided that the member municipalities may by joint or concurrent resolution or ordinance enumerate which other powers in general or specific terms and may impose such limitations upon the powers of the authority as they deem appropriate.

(g) To participate in any joint electric power supply project with an investor-owned electric utility or rural electric cooperative association, by joint ownership, contract for the purchase or sale of electric energy or capacity or both, or otherwise, to the same extent as any public electric utility or member municipality is authorized by this or any other law to participate.

(4) After the creation of an authority, any other municipality authorized hereunder to join in creation of an authority may become a member thereof upon the approval of the authority. Any member municipality may withdraw from an authority with the consent of the authority; provided, however, that all contractual rights acquired and obligations incurred while the municipality was a member shall remain in full force and effect.

(5) An authority may be dissolved by joint or concurrent resolution or ordinance of its members, and its funds and other property distributed to its members as pro-

vided therein, upon a finding by its members that the purposes of the authority have been substantially fulfilled; provided that all bonds and other obligations of the authority have been fully paid, or payment thereof has been duly provided for.

Section 3. Joint Public/Private Projects.--Every public electric utility is authorized to join with one or more investor-owned utilities or rural electric cooperative associations or other public electric utilities, by joint ownership, contract for the purchase or sale of electric energy or capacity or both, or otherwise, for the purposes of jointly financing, acquiring, constructing, managing, operating, utilizing, and owning any electric power supply project or projects or purchasing or selling at wholesale the electric energy or capacity, or both, produced by an electric power supply project or projects, in accordance with the provisions of this act and, in the implementation of this act, may create any organization, association, or legal entity for the accomplishment of the purposes of this act. For such purposes, a public electric utility shall have the same powers as are provided in this act for joint power authorities.

Section 4. Home Rule Powers.--It is expressly recognized that municipalities shall have the right to exercise the home rule powers authorized by the Florida Constitution in order to effectively carry out the purposes of Article VII subsection 10(d), of the Florida Constitution and of this act

No other act or parts thereof shall be construed or interpreted as inconsistent with or in derogation of the right of municipalities to exercise the home rule powers as above provided.

Section 5. Powers Supplemental.--The powers conferred by this act shall be in addition and supplementary to existing powers and statutes, and this act shall not be construed as repealing or limiting any of the provisions of any other law, general, local, or special; provided, however, that whenever the full and complete exercise of any power conferred on an authority or public electric utility by this act would conflict with a limitation contained in its charter or otherwise expressed by special act, such charter or special act limitation shall be superseded by this act for the purposes of the exercise of such power pursuant to this act.

Section 6. Construction.--The provisions of this act, being necessary for the welfare and prosperity of the state and its inhabitants, and being enacted for the purpose of implementing the provisions of Article VII, Section 10(d) of the Florida Constitution, as amended, shall be liberally construed to effect the purposes thereof.

Section 7. This act shall take effect July 1, 1975.

APPENDIX F

ST. LUCIE UNIT NO. 2

PARTICIPATION AGREEMENT

This Agreement made as of June 6, 1980, between Florida Power & Light Company ("Company") and the Orlando Utilities Commission, a statutory commission under the laws of the State of Florida ("Participant").

WITNESSETH THAT:

WHEREAS, Company is constructing a nuclear generating unit, to be called St. Lucie Unit No. 2, at a site on Hutchinson Island, in St. Lucie County, Florida; and

WHEREAS, Company has undertaken to obtain and has received from the Nuclear Regulatory Commission under NRC Docket No. 50-389 a permit to construct St. Lucie Unit No. 2; and

WHEREAS, Company and Participant have negotiated the terms and conditions of this Agreement, and Company is willing to sell and Participant is willing to purchase ownership rights in St. Lucie Unit No. 2, all in accordance with the terms of this Agreement; and

is in conformance with the general guides and testing procedures in Sections III and IV, respectively, of the Southeastern Electric Reliability Council Guideline No. 2 for Uniform Generator Ratings for Reporting, dated February 1972, as amended October, 1978.

1.29 "Station Service Requirements" means the Power and Energy required during any period for operation of all equipment and systems (including an allocable portion of the Power and Energy used for Common Facilities) used or useful in connection with the start-up, operations, shut-down and maintenance of St. Lucie Unit No. 2.

1.30 "Uniform System of Accounts" means the Federal Energy Regulatory Commission's "Uniform System of Accounts Prescribed for Public Utilities and Licensees (Class A and Class B)," in effect as of the date of this Participation Agreement, or as such System of Accounts may be modified by the Federal Energy Regulatory Commission from time to time. References in this Participation Agreement to a "FERC Account" or to any specific Account Number shall mean the Account Number in effect as of the date of this Participation Agreement or any successor Account.

1.31 "Unit Site" means the portion of the St. Lucie Site described in the legal description contained in Exhibit III.

1.32 "Willful Action" is action knowingly or intentionally taken or not taken by an officer or employee of an

Owner exercising managerial responsibility at a senior level with either the intent to cause injury or damage to another or the knowledge that such action is a material breach of the provisions of this Participation Agreement. Willful Action does not include action taken in good faith in connection with carrying out responsibilities to protect property, personnel or the public safety.

24. Generally Accepted Electric Utility Practice.

Company shall perform its obligations according to Generally Accepted Electric Utility Practice, but Company shall have no liability to Participant under any circumstances nor shall Participant be relieved of any obligation to make payment except as provided in Section 25.

25. Liability and Indemnification.

Except for the obligation to make the payments required by this Participation Agreement, and except as provided in Section 17.5.2 herein, and except to the extent that such liability is discharged by the insurance described in Section 26, no Owner or its directors, officers, Commissioners, Councilmen, agents, or employees, shall have any liability in contract, in tort or otherwise to other Owners, or to any of them, for any direct, indirect or consequential loss, cost, damage or other expense incurred or sustained as a result of any act or failure to act, whether or not negligent (including gross negligence, sole negligence or any other type of negligence), or otherwise, by such Owner, or its governing board members, directors, officers, Commissioners, Councilmen, agents, employees or contractors, or by any other person or persons for whom such party is deemed responsible, in performing or failing to perform the provisions of this Participation Agreement, and shall only be liable for such loss, cost, damage or other expense resulting from Willful Action.

Except to the extent that such liability is discharged by applicable insurance, no Owner or its governing board members, directors, officers, agents, or employees, shall have any liability in contract, tort or otherwise to the other Owners, or to any of them, for any direct, indirect or consequential loss, cost, or damage, or other expenses incurred or sustained as a result of

any act or failure to act, whether or not negligent (including gross negligence, sole negligence or any other type of negligence), or otherwise, by the Company, or its directors, officers, agents, employees or contractors or any other person or persons for whom Company is deemed responsible arising out of Company's construction, maintenance of, or other activities in respect of any other generating unit at the St. Lucie Site, and shall only be liable for such loss, cost, damage or other expense resulting from Willful Action.

The Parties shall share in proportion to their Ownership Shares the cost incurred by the Owners or any of them in discharging liability and other responsibilities to third parties incurred in the performance of the work contemplated by this Participation Agreement, except to the extent that such liability results from Willful Action. The Participant shall, to the extent of its Ownership Percentage, indemnify and save harmless Company, its directors, officers, agents, employees or contractors, from and against the cost of discharging liability to or compromising or satisfying claims or demands by any third party or parties (including without limitation attorneys' fees, costs and expenses in connection therewith, whether incurred at pretrial, trial or appellate proceedings) arising out of any personal injury, including death resulting therefrom, or out of any damage to or loss or destruction of property, or out of any claim based on tort, contract, or otherwise, which is in any manner

based upon, occasioned by or attributable to the undertaking or performance or omission or failure to perform by Company, its directors, officers, agents, employees, contractors or by any other person or persons for whom Company is deemed responsible, of the responsibilities assigned to Company by this Participation Agreement, notwithstanding that such damage, loss or claim may be the result of negligence, sole negligence, gross negligence, or otherwise, except to the extent that such liability, losses, claims or demand are discharged by the insurance described in Section 26 or are caused by Willful Action on the part of the Company.

UNITED STATES OF AMERICA
BEFORE THE
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

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

CERTIFICATE OF SERVICE

I hereby certify that copies of Florida Cities' Answer To Joint Motion were served by hand* or deposited in the U.S. Mail, first class postage prepaid this 9th day of October, 1980.

*Ivan W. Smith, Esq., Chairman
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Nuclear Regulatory Commission
Washington, D.C. 20555

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Beach Utilities Commission,
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Gainesville Regional Utilities
and the Cities of Alachua,
Bartow, Ft. Meade, Homestead,
Key West, Kissimmee, Lake
Helen, Mt. Dora, Newberry, St.
Cloud, Starke and Tallahassee,
Florida and the Florida
Municipal Utilities Association