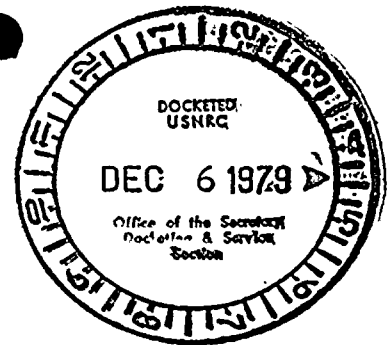


12/6/79

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE COMMISSION



In the Matter of)

FLORIDA POWER & LIGHT COMPANY)
(St. Lucie Plant, Units No. 1)
and No. 2))

NRC Dkt. Nos. 50-335A
50-389A

FLORIDA POWER & LIGHT COMPANY)
(Turkey Point Plants, Units)
No. 3 and No. 4))

NRC Dkt. Nos. 50-250A
50-251A

STAFF'S ANSWER TO FLORIDA CITIES'
NOVEMBER 16, 1979 MOTION TO LODGE

By motion of November 16, 1979, Florida Cities have requested leave to lodge an August 3, 1979 opinion by the Federal Energy Regulatory Commission in Docket No. ER78-19 as part of the NRC's determination of whether to conduct a proceeding under §105(a) of the Atomic Energy Act of 1954, as amended, in connection with the above-captioned matter. Florida Cities had previously moved the Commission to lodge these documents on August 9, 1979. The reason Florida Cities again bring this motion to the Commission's attention is to advise that the Federal Energy Regulatory Commission has recently denied Florida Power & Light's application for rehearing in Docket No. ER78-19.

In Staff's answer of August 23, 1979, we did not oppose Florida Cities' motion to lodge. Staff continues not to oppose Florida Cities' lodging the documents in question.

Respectfully submitted,

Lee Scott Dewey
Lee Scott Dewey
Counsel for NRC Staff

Fredric D. Chanania
Fredric D. Chanania
Counsel for NRC Staff

Dated at Bethesda, Maryland
this 6th day of December 1979.

m

7912110 345



1

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE COMMISSION

In the Matter of)	
FLORIDA POWER & LIGHT COMPANY)	NRC Docket Nos. 50-335A
(St. Lucie Plant, Units No. 1)	50-389A
and No. 2))	
FLORIDA POWER & LIGHT COMPANY)	NRC Docket Nos. 50-250A
(Turkey Point Plant, Units)	50-251A
No. 3 and No. 4))	

CERTIFICATE OF SERVICE

I hereby certify that copies of STAFF'S ANSWER TO FLORIDA CITIES' NOVEMBER 16, 1979 MOTION TO LODGE, in the above-captioned proceedings, have been served on the following by deposit in the United States mail, first class, or, as indicated by an asterisk, through deposit in the Nuclear Regulatory Commission's internal mail system, this 6th day of December 1979.

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

Valentine B. Deale, Esq.
Atomic Safety and Licensing Board
Panel
1001 Connecticut Avenue, N.W.
Washington, D.C. 20036

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

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

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

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

Tracy Danese, Esq.
Vice President for Public Affairs
Florida Power & Light Company
P.O. Box 013100
Miami, Florida 33101

Jack W. Shaw, Jr., Esq.
John E. Mathews, Jr., Esq.
Mathews, Osborne, Ehrlich, McLatt,
Gobelman & Cobb
1500 American Heritage Life Building
11 East Forsyth Street
Jacksonville, Florida 32202

Harry W. Wright
Executive Vice President
Seminole Electric Cooperative, Inc.
Suite 108
2410 East Busch Boulevard
Tampa, Florida 33612



1
2

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

Dr. John W. Wilson
Wilson & Associates
2600 Virginia Avenue, N.W.
Washington, D.C. 20037

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

Robert A. Jablon, Esq.
Daniel J. Guttman, Esq.
Alan J. Roth, Esq.
2600 Virginia Avenue, N.W.
Washington, D.C. 20037

Donald A. Kaplan, Esq.
David A. Leckie, Esq.
P.O. Box 14141
Washington, D.C. 20044

William H. Chandler, Esq.
Chandler, O'Neal, Avera, Gray,
Land & Strippling
Post Office Drawer 0
Gainesville, Florida 32602

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

Mr. David Springs
Southern Engineering Company
1000 Crescent Avenue, N.E.
Atlanta, Georgia 30309

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

Daniel M. Gribbon
Herbert Dym
Covington & Burling
888 Sixteenth Street, N.W.
Washington, D.C. 20006

Chairman Hendrie
Office of the Commission
U.S. Nuclear Regulatory Commission
Washington, D. C. 20555 *

Commissioner Gilinsky
Office of the Commission
U.S. Nuclear Regulatory Commission
Washington, D. C. 20555 *

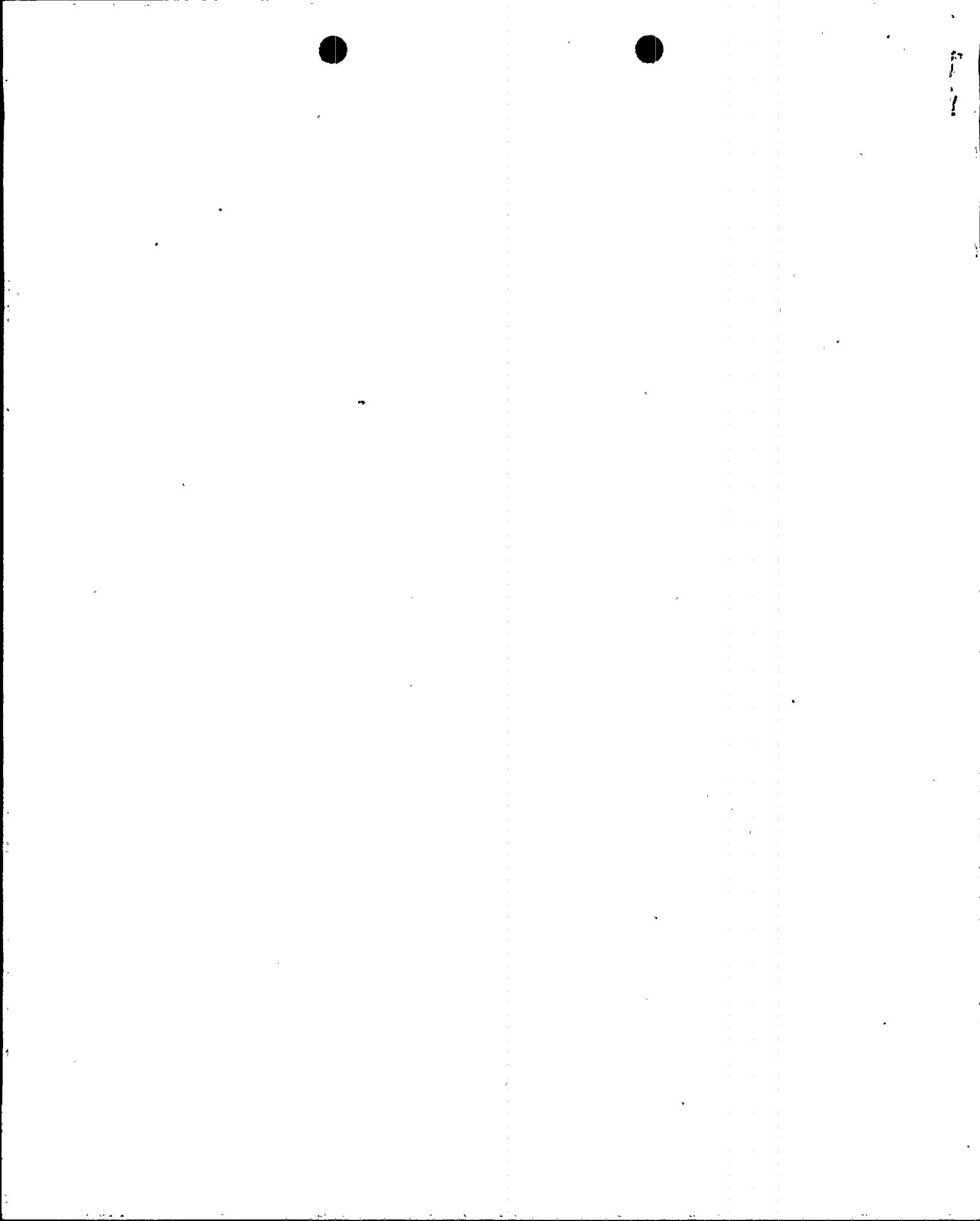
Commissioner Kennedy
Office of the Commission
U.S. Nuclear Regulatory Commission
Washington, D. C. 20555 *

Commissioner Bradford
Office of the Commission
U.S. Nuclear Regulatory Commission
Washington, D. C. 20555 *

Commissioner Ahearne
Office of the Commission
U.S. Nuclear Regulatory Commission
Washington, D. C. 20555 *

Fredric D. Chanania

Fredric D. Chanania
Counsel for NRC Staff



UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

Before the Commission

12/3/79



In the Matter of:)

Florida Power & Light Company)
(St. Lucie Plant, Unit No. 1))

Docket No. 50-335A

Florida Power & Light Company)
(Turkey Point Plant, Units 3)
and 4))

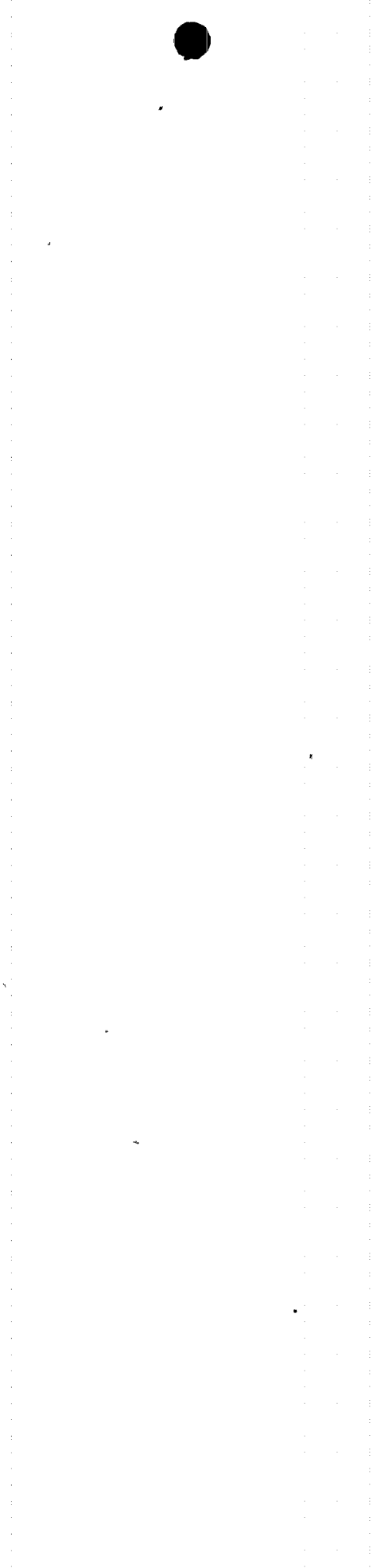
Docket No. 50-250A
50-251A

RESPONSE OF FLORIDA POWER & LIGHT
COMPANY TO CITIES' MOTION
TO LODGE FERC OPINION NO. 57-A

On November 16, 1979, the Cities moved to "lodge"
in these dockets FERC Opinion No. 57-A.^{1/}

FPL opposes this latest Motion and relies on the reasons set forth in its Response to Cities Motion to Lodge filed in this matter on August 24, 1979. The denial of rehearing leaves Opinion No. 57 subject to judicial review and, further, does nothing to remedy the jurisdictional flaw in Cities' earlier motion: namely, that the FERC's findings concerning the justness and reasonableness of a tariff in no way relate to findings of antitrust violations by a court of competent jurisdiction, the predicate for any action under Section 105a of the Atomic Energy Act.

^{1/} The Cities moved on August 9, 1979 to lodge FERC Opinion No. 57. Opinion 57-A denies rehearing of Opinion No. 57. Under the Federal Power Act, rehearing must be sought before judicial review of an FERC order can be obtained. 16 U.S.C. §8251(a)



FPL requests that the Commission deny the Motion.

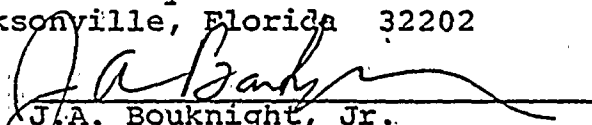
Respectfully Submitted,

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

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

John E. Mathews, Jr.
Mathews, Osborne, Ehrlich, McNatt,
Gobelman & Cobb
1500 American Heritage Life Building
11 East Forsyth Street
Jacksonville, Florida 32202

By:


J.A. Bouknight, Jr.

Attorneys for Florida Power & Light
Company

Dated: December 3, 1979



UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

Before the Commission.

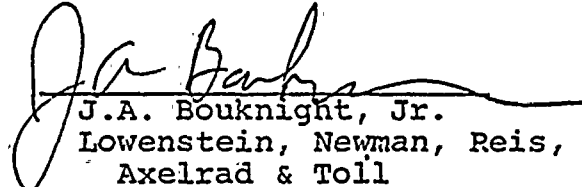
In the Matter of:)	
)	
Florida Power & Light Company)	Docket No. 50-335A
(St. Lucie Plant, Unit No. 1))	
)	
Florida Power & Light Company)	Docket No. 50-250A
(Turkey Point Plant, Units 3)	50-251A
and 4))	

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that copies of the following:

RESPONSE OF FLORIDA POWER & LIGHT TO CITIES' NOVEMBER 16
MOTION TO LODGE have been served on the persons shown on the
attached list by deposit in the United States Mail, properly
stamped and addressed, on December 3, 1979.

By:


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

Attorney for Florida Power & Light
Company



Chairman Joseph M. Hendrie
Office of the Commissioners
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Commissioner Victor Gilinsky
Office of the Commissioners
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Commissioner Richard Kennedy
Office of the Commissioners
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Commissioner Peter Bradford
Office of the Commissioners
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Commissioner John F. Ahearne
Office of the Commissioners
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

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

Jerome E. Sharfman, Esquire
Atomic Safety and Licensing
Appeal Board Panel
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

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

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

Valentine B. Deale, Esquire
Atomic Safety and Licensing
Board Panel
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

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

Robert Fabricant, Esquire
Janet R. Urban, Esquire
Antitrust Division
U.S. Department of Justice
P.O. Box 14141
Washington, D.C. 20044

Lee Scott Dewey, Esquire
Counsel for the Staff
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

C.R. Stephens, Supervisor (20)
Docketing and Service Station
Office of the Secretary of the
Commission
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

William C. Wise, Esquire
Suite 200
1019 19th Street, N.W.
Washington, D.C. 20036

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

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

Samuel J. Chilk
Secretary
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

