

LAW OFFICES  
LOWENSTEIN, NEWMAN, REIS & AXELRAD

1025 CONNECTICUT AVENUE, N.W.

WASHINGTON, D.C. 20036

202 833-8371

ROBERT LOWENSTEIN  
JACK R. NEWMAN  
HAROLD F. REIS  
MAURICE AXELRAD  
KATHLEEN H. SHEA  
J. A. BOUKNIGHT, JR.

HOPE M. DABCOCK  
MICHAEL A. BAUSER  
ROBERT H. CULP  
FREDERIC S. GRAY  
LINDA L. HODGE  
JOEL S. WIGHT (ADM. CLERK)

August 5, 1977

Mr. Edson G. Case  
Acting Director  
Office of Nuclear Reactor Regulation  
U.S. Nuclear Regulatory Commission  
Washington, D.C. 20555

Re: Florida Power & Light Company  
St. Lucie Plant, Unit No. 1  
Turkey Point Plant, Units No. 3 & 4  
Docket Nos. 50-335A, 50-250A, 50-251A

Dear Mr. Case:

This regards a letter addressed to you from Robert A. Jablon, attorney for "Florida Cities", dated August 1, 1977. Mr. Jablon's letter requires response in two respects.

The Cities suggest that Florida Power & Light Company (FPL) should not be afforded the opportunity to respond to a notice of violation, as provided in 10 CFR §2.201, prior to issuance of any order to show cause in these dockets. This suggestion is contrary to law. The notice procedure provided in §2.201 is based directly upon the requirement of the Administrative Procedure Act, 5 U.S.C. 558. In addition, the Cities' position appears to be grounded upon the view that a "record" exists in these dockets. No evidentiary record of any kind exists. The Cities appear to have confused their own claims and charges with an evidentiary record; in fact, the Cities' pleadings are nothing but that - the advocacy of one party. Simply because these baseless and exaggerated charges have been repeated countless times in pleadings submitted by the Cities (and apparently the Cities would have all of their previous pleadings incorporated by reference into each new pleading) does not lend credence to them or raise them to the dignity of a "record".

The Cities also suggest that FPL's reference to its rights to notice and an opportunity to respond thereto represents a dilatory tactic on the part of FPL. However, review of the papers filed with the Director of Nuclear Reactor Regulation, beginning with Mr. Jablon's own confusing letter

Mr. Edson G. Case  
August 3, 1977  
Page 2

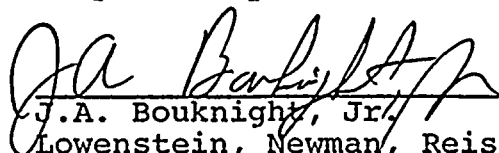
of October 29, 1976, will reveal that any delay which has taken place in resolving this matter is not the responsibility of FPL.

Cities and their counsel have adopted the tactic of filing papers containing extensive charges against FPL in almost every conceivable governmental forum. Some of the charges which appear in the papers filed with you have been the subject of a civil antitrust case between FPL and one of the Cities, a case which was determined at the trial court level upon a jury verdict and judgment for FPL; other charges have been the subject of previous proceedings before the Federal Power Commission; many are now pending in an active proceeding being conducted by the Federal Power Commission; letters have been directed to the Antitrust Division of the U.S. Department of Justice and to members of Congress. None of the charges made by the Cities has ever been found to be true or meritorious by any court or governmental agency. Nonetheless, the Cities respond to each judicial or administrative rejection of their charges by strengthening the rhetoric of their next pleading ("egregiously ...misuse").

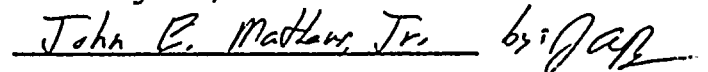
It would appear that if any party to this matter should be heard to complain of "exhaust[ive]" and vexatious litigation it would not be the Cities. It is not too much to expect that parties which choose to institute litigation on every possible front should be required to endure the exercise of the accused party's established procedural rights..

Accordingly, it is requested that, for the reasons stated in FPL's letter of July 5, 1977, no proceedings be initiated on the basis of the Cities request. In the event, however, that the Director determines to initiate proceedings, FPL requests that it be afforded the notice of violation and opportunity to respond thereto provided in the Administrative Procedure Act and in 10 CFR §2.201.

Respectfully Submitted,



J.A. Bouknight, Jr.  
Lowenstein, Newman, Reis & Axelrad  
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

Attorneys for  
Florida Power & Light  
Company

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

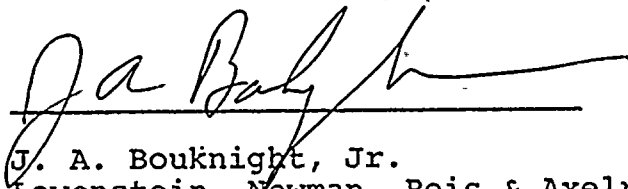
In the Matter of	)	
	)	
Florida Power & Light Company	)	Docket No. 50-335A
(St. Lucie Plant, Unit No. 1)	)	
	)	
Florida Power & Light Company	)	Docket No. 50-250A
(Turkey Point Plant, Unit Nos.	)	50-251A
3 and 4)	)	

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that copies of the following:

Letter to the Director, Nuclear Reactor Regulation dated 8/5/77  
have been served on the persons shown on the attached list by  
hand delivery or deposit in the United States Mail, properly  
stamped and addressed on August 5, 1977

By:



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

Counsel for Florida Power & Light  
Company

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

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

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

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

David A. Leckie, Esquire  
Antitrust Division  
Department of Justice  
P.O. Box 7513  
Washington, D.C. 20530

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

Secretary  
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  
Nuclear Reactor Regulation  
Washington, D.C. 20555