



UNITED STATES  
NUCLEAR REGULATORY COMMISSION  
WASHINGTON, D. C. 20555

October 30, 1989

The Honorable Philip Sharp, Chairman  
Subcommittee on Energy and Power  
Committee on Energy and Commerce  
United States House of Representatives  
Washington, D.C. 20515

Subject: Davis v. Florida Power & Light Company and the  
Nuclear Regulatory Commission, No. 88-2207  
(S.D. Fla.)


Dear Mr. Chairman:

On December 8, 1988 this office informed you of the above case in which ten former employees of Bechtel Corporation who worked at Florida Power and Light ("FPL") Company's Turkey Point Nuclear Plant challenged rescission of their unescorted access status by FPL following criminal history checks required by Nuclear Regulatory Commission ("NRC") regulations.

FPL and NRC moved to dismiss the case. In an October 18, 1989 order of dismissal the Court noted that FPL's decision to deny plaintiffs' access authorization was not so infused with specifically tailored regulations as to transmute what was fundamentally a private decision into state action. The Court further noted in support of the finding of no state action that the decision to deny unescorted access was made by FPL, not the NRC; and the regulatory scheme in no way compelled or dictated the denials of unescorted access authorization.

Plaintiffs have not indicated whether they will appeal from the order of dismissal. If plaintiffs appeal, we will notify you promptly.

Sincerely,

  
John F. Cordes, Jr.  
Solicitor

cc: The Honorable Carlos J. Moorhead

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UNITED STATES  
NUCLEAR REGULATORY COMMISSION  
WASHINGTON, D. C. 20555

October 30, 1989

The Honorable Morris K. Udall, Chairman  
Subcommittee on Energy and the Environment  
Committee on Interior and Insular Affairs  
United States House of Representatives  
Washington, D.C. 20515

Subject: Davis v. Florida Power & Light Company and the  
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John F. Cordes, Jr.  
Solicitor

cc: The Honorable James V. Hansen



UNITED STATES  
NUCLEAR REGULATORY COMMISSION  
WASHINGTON, D. C. 20555

October 30, 1989

The Honorable John B. Breaux, Chairman  
Subcommittee on Nuclear Regulation  
Committee on Environment and Public Works  
United States Senate  
Washington, D.C. 20510

Subject: Davis v. Florida Power & Light Company and the  
Nuclear Regulatory Commission, No. 88-2207  
(S.D. Fla.)

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John F. Cordes, Jr.  
Solicitor

cc: The Honorable Alan K. Simpson



UNITED STATES  
NUCLEAR REGULATORY COMMISSION  
WASHINGTON, D. C. 20555

October 30, 1989

The Honorable J. Bennett Johnston, Chairman  
Subcommittee on Energy and Water Development  
Committee on Appropriations  
United States Senate  
Washington, D.C. 20510

Subject: Davis v. Florida Power & Light Company and the  
Nuclear Regulatory Commission, No. 88-2207  
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John F. Cordes, Jr.  
Solicitor

cc: The Honorable Mark O. Hatfield



UNITED STATES  
NUCLEAR REGULATORY COMMISSION  
WASHINGTON, D. C. 20555

October 30, 1989

The Honorable Tom Bevill, Chairman  
Subcommittee on Energy and Water Development  
Committee on Appropriations  
United States House of Representatives  
Washington, D.C. 20515

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cc: The Honorable John T. Myers