

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION



ATOMIC SAFETY AND LICENSING APPEAL BOARD

Administrative Judges:

Alan S. Rosenthal, Chairman
Dr. W. Reed Johnson
Thomas S. Moore

SERVED SEP 2 1981

In the Matter of

FLORIDA POWER AND LIGHT COMPANY

(Turkey Point Nuclear Generating
Station, Units 3 and 4)

Docket Nos. 50-250 SP
50-251 SP

MEMORANDUM

September 1, 1981

Pending before this Board are the appeals taken by intervenor Mark P. Oncavage from (1) the Licensing Board's May 28, 1981 memorandum and order, LBP-81-14, 13 NRC ___; and (2) that Board's June 19, 1981 order, LBP-81-16, 13 NRC ___. The appeal from the May 28 memorandum and order is now fully briefed. Although Mr. Oncavage's brief in support of his exceptions to the June 19 order was filed on August 6, the time for the filing of the responsive briefs of the other parties has not yet run.^{1/}

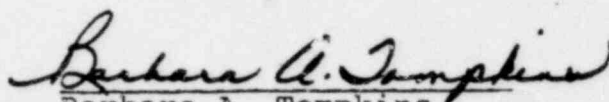
1/ By August 27, 1981 order, we consolidated the two appeals for consideration and decision.

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The applicant has just brought to our attention its receipt of a motion by Joel Jaffer for "leave to appear herein as amicus curiae, and to be served with all notices and pleadings herein whatsoever pursuant to 10 CFR 2.715." Although noting that there was no indication that the motion had been properly filed, out of an abundance of caution the applicant elected to apprise us of its opposition to the relief sought by Mr. Jaffer.

Because, as the applicant surmised, it has not been filed with us, the motion need not be now considered. Mr. Jaffer is free, of course, to remedy that apparent oversight. Before doing so, however, he may wish to consult Section 2.715(d) of the Commission's Rules of Practice, 10 CFR 2.715(d). Insofar as is here relevant, that Section states that, "[except] as otherwise provided by * * * the Appeal Board", an amicus curiae brief "must be filed within the time allowed to the party whose position the brief will support". As above noted, Mr. Oncavage's briefs are already on file. If, as the applicant believes to be the case, Mr. Jaffer proposes to support Mr. Oncavage's position, any request at this time for leave to participate amicus curiae would be untimely. As such, the request would necessarily be denied in the absence of the most compelling showing that it was not possible for Mr. Jaffer to have acted at a much earlier date.

FOR THE APPEAL BOARD

A handwritten signature in cursive script, reading "Barbara A. Tompkins". The signature is written in dark ink and is positioned above the typed name.

Barbara A. Tompkins
Secretary to the
Appeal Board