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The Honorable Lawton Chiles
United States Senate
Washington, D.C. 20510

DOCKET NUMBER PR-51
PROPOSED RULE (46 FR 39440)

Dear Senator Chiles:

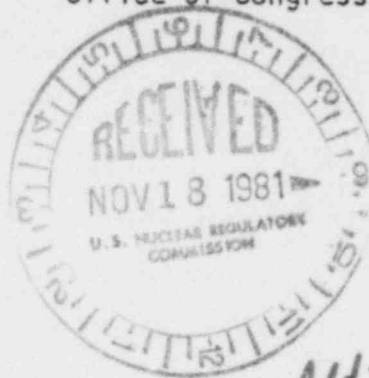
Thank you for your letter dated October 13, 1981, enclosing a copy of comments which your constituent, Mark Oncavage, had provided the Commission concerning an NRC proposed rule, 10 CFR 51.53.

Mr. Oncavage's comments will be reviewed by the Commission and considered as part of the rulemaking proceeding. His comments along with others received will be addressed in publication of the final rule.

Sincerely,

Signed by J. Kent

Carlton Kammerer, Director
Office of Congressional Affairs



DSIO Add: Darrel Nash
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United States Senate

BUDGET
GOVERNMENTAL AFFAIRS
SPECIAL COMMITTEE ON AGING
DEMOCRATIC STEERING COMMITTEE

Chiles

October 13, 1981

Mr. Carlton Kammerer, Director
Office of Congressional Affairs
Nuclear Regulatory Commission
1712 A Street, NW
Washington, D.C. 20555

Dear Mr. Kammerer:

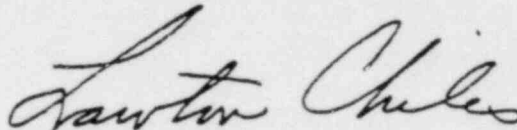
I have recently received the enclosed correspondence regarding a matter involving your agency, and because of my desire to be responsive to all inquiries, I would appreciate having your comments and views.

Your early consideration of this matter will be appreciated. If convenient, I would like to have your reply in duplicate and to have the enclosure returned.

Please refer to Mark P. Oncavage in your reply.

With kindest regards, I am

Most sincerely,



LAWTON CHILES

LC/dm
Enclosure

10/16..To OCA for Direct Reply...Suspense: Nov 2...Cpy to: Docket..81-2199

Dupe

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September 30, 1981

Secretary of the Commission
U.S. Nuclear Regulatory Commission
Washington D.C. 20555
Att: Docketing and Service Branch

RE: Proposed 10 C.F.R. § 51.53

Dear Sirs:

I am the acting president of Floridians United For Safe Energy (FUSE). Almost all of our 700 contributors reside in Dade County, Florida. For myself, for FUSE and on behalf of our contributors I write to voice my opposition to the proposed 10 C.F.R. § 51.53 that appeared at page 39442 of the Federal Register of August 3, 1981. This regulation should not be adopted by the Nuclear Regulatory Commission.

This proposed rule is in violation of the National Environmental Policy Act (NEPA), in particular 42 U.S.C. § 4332. Alternative energy sources and productive conservation are reasonable alternatives to building, repairing and modernizing nuclear power plants. NEPA requires each federal agency to consider, to the fullest extent possible, all reasonable alternatives to any federal action that will significantly affect the human environment. To ignore these two reasonable alternatives is to ignore the commands of Congress. The NRC is not above the law. It should be required to respect and obey the laws of the land as passed by Congress and approved by the President.

The people of this country expect our public servant decision-makers to consider all of the facts before reaching a decision on a nuclear operating license. This is a decision that will be of great consequence to the citizenry. It dyserves the people of this country for the Nuclear Regulatory Commission to ignore concepts like productive conservation and alternative energy while making decisions of such great importance. Decisions should be made by fully informed officials. Withholding information from these people can only harm the decision making process. The marketplace of ideas functions best in an open society where all thoughts are considered and none are suppressed.

The cost-benefit of nuclear power should be subjected to public scrutiny. If alternative methods of meeting the needs of the public for power are economically more efficient, then the public should be so informed. The function of the NRC under the National Environmental Policy Act should be to weigh the environmental and economic advantages and disadvantages of each license proposal vis a vis alternative methods of providing the same benefit to the public. This function cannot be carried out if the NRC is,

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by regulation, required to ignore significant and important alternatives. In these times of economic difficulty, all attempts should be made to guarantee that the public is provided with the most efficient and least expensive way to satisfy its energy demand.

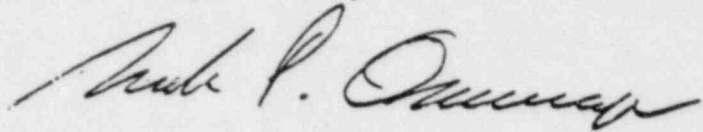
The case of In the matter of Florida Power and Light Company (Turkey Point Units 3 and 4) Docket Nos. 50-250 and 251 is presently pending before the Atomic Safety and Licensing Appeal Board. I am the intervenor in that action. The purpose of my intervention was primarily to show that productive energy conservation methods and alternative energy sources could be used, in conjunction with the normal derating of the Turkey Point plants, to meet the energy demand of the people of South Florida in an economically more efficient and environmentally less harmful manner than the repair procedure proposed by Florida Power & Light Company. The Atomic Safety and Licensing Board refused to consider these two alternatives.

Your regulation proposal states that it will be applied to ongoing licensing proceedings. This is an attempt to defeat my intervention application by changing the rules by which your agency operates in the middle of an ongoing case. Retroactive and ex post facto application of new rules to ongoing adjudicatory procedures are fundamentally unfair. Such an attempt encourages disrespect for your agency and the law in general. Fairness and good faith suggest that the rules of a case be followed throughout the procedure. Inasmuch as your staff has vigorously opposed my intervention from its inception, on every issue of substance and procedure, this regulation appears to be an attempt to defeat my cause through rule making in order to eliminate any opportunity to contest this case before the appeal board. The NRC staff represents the public interest. It should not let its adversary position in adjudications affect its rule making powers. It should not succumb to the temptation of using its powers in order to advance its position in an ongoing adjudication.

Public participation in our governmental process should be encouraged. This is so because the public will bear the cost of any mistake that is made and because a democratic society functions best when its citizens participate in the governmental decision making process. Your proposed regulation discourages public participation in a process that is already very difficult for the public to enter. It will spawn resentment if an incorrect decision is made in a process that is closed to the public. The public, who ultimately foot the bills and to whom you owe your primary allegiance, should be your first concern. This regulation places the public in a position of preference secondary to

the electric utility industry and should for that reason be withdrawn.

Respectfully submitted,



Mark P. Oncavage
1220 S.W. 110th Avenue
Miami, Florida 33174

MPO/cq

cc:

Rep. Richard L. Ottinger
Rep. Anthony Toby Moffett
Rep. Albert Gore, Jr.
Rep. Ted Weiss
Rep. Dante Fascell
Rep. Claude Pepper
Rep. William Lehman
Sen. Lawton Chiles
Sen. Paula Hawkins