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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

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ATOMIC SAFETY AND LICENSING APPEAL BOARD

OFFICE OF SECRETARY
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BRANCH

In the Matter of	
FLORIDA POWER & LIGHT COMPANY	Docket Nos. 50-250 OLA-5 50-251 OLA-5
(Turkey Point Plant, Units 3 & 4)	(Technical Specifications Replacement)

October 11, 1990

LICENSEE'S OPPOSITION TO NEAP'S REQUEST TO CHANGE THE LOCATION OF ORAL ARGUMENT

On July 25, 1990, the Nuclear Energy Accountability Project ("NEAP") filed a Notice of Appeal from a July 17, 1990 Atomic Safety and Licensing Board Memorandum and Order dismissing NEAP from the above-captioned proceeding. NEAP's Notice of Appeal also "request[ed] Oral Argument on the issue of standing and that Oral Argument be held in Miami, Florida to permit intervenors [NEAP] a fair and equitable opportunity to address the issue of standing in this proceeding." Notice of Appeal, at 2.

It is the view of Licensee, Florida Power & Light Company, that the appeal in this proceeding is clearly lacking in merit, and that the Appeal Board could, accordingly, dispense

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with oral argument. If, nevertheless, the Board, in its discretion, should determine to hear oral argument, Licensee wishes to note its opposition to shifting the location of such argument to Miami for the reasons set forth below.

Under the Commission's regulations it is "anticipated that oral arguments will be conducted in either Washington, D.C., or Bethesda, Md." 10 C.F.R. Part 2, Appendix A, IX(e) (1990). This represents Commission policy. Wisconsin Electric Power Company (Point Beach Nuclear Plant, Units 1 and 2), ALAB-666, 15 NRC 277, 280 n.5 (1982). Thus, the Commission has concluded that there will be an adequate opportunity for appellants to present argument to the Appeal Board if the argument is held near the NRC's Headquarters; and that, all factors considered, the public interest favors such a location. As against these considerations, NEAP provides no support, whatsoever, for its bare assertion that argument should be moved to Miami in order for it to be given a "fair and equitable hearing."

Further, it is obvious that the relocation of appellate argument to the Miami area will impose far greater financial burdens on the Nuclear Regulatory Commission -- and, therefore, the public -- than would be incurred if argument were held in the vicinity of NRC Headquarters. Relocation of oral argument would

require the Commission to bear the travel expenses of the three members of the Appeal Board, together with whatever supporting personnel they may require, as well as NRC Staff counsel, and whatever supporting personnel she may require. By contrast, counsel of record for NEAP has indicated that she may be served in either Appleton, Wisconsin, or Houston, Texas. See Notice of Appearance (June 21, 1990). As counsel for NEAP would have to travel to Miami for oral argument if NEAP's request should be granted, the additional burden, if any, on her traveling to Washington, D.C., would appear to be minimal.

Finally, since NEAP initiated the appellate process, it is somewhat incongruous for it to argue that it should not be made to bear the normal burdens associated with an appeal, including the cost of travel to the usual situs of oral argument. In this regard, the Appeal Board has stated on more than one occasion that persons invoking the adjudicative process are expected to fulfill their obligations under the Commission's rules, despite limited funds. See Metropolitan Edison Co. (Three Mile Island Nuclear Station, Unit No. 1), ALAB-807, 21 NRC 1195, 1212 (1985).

In sum, NEAP has presented no cogent reason for deviating from agency practice. As a result, its request to transfer the location of oral argument should be denied.

Respectfully submitted,

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In the Matter of	)	
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FLORIDA POWER & LIGHT COMPANY	)	**Docket Nos. 50-250 OLA-5**
	)	**50-251 OLA-5**
(Turkey Point Plant,	)	
Units 3 & 4)	)	**(Technical Specifications**
	)	**Replacement)**

CERTIFICATE OF SERVICE

I hereby certify that a copy of the "Licensee's Opposition to NEAP's Request to Change the Location of Oral Argument" in the above captioned proceeding, dated October 11, 1990, was served on the persons designated below by deposit in the United States mail, first class postage paid on this date.

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Dated this 11th day of October 1990.

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