

February 15, 1984

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

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

NRC STAFF'S OBJECTION TO  
PETITIONER'S DISCOVERY REQUEST

On January 25, 1984, Petitioners Joette Lorion and Center for Nuclear Responsibility filed an amended petition to intervene setting forth contentions proposed for litigation in the captioned proceeding (Amended Petition). Attached to the Amended Petition is a "Discovery Request" in which Petitioners request the provision of eleven documents listed in the "Discovery Request."<sup>1/</sup> The various requested documents involve NRC Staff inputs for safety evaluations on license amendments for Turkey Point Units 3 and 4, a safety evaluation on fuel rod bowing and its effect on thermal margin calculations, and a number of internal NRC Staff memoranda.

As a matter of discovery, Petitioners' request is premature. 10 CFR § 2.740(b)(1) explicitly stipulates that:

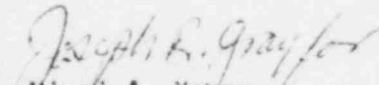
. . . discovery shall begin only after the prehearing conference provided for in § 2.751a and shall relate only to those matters in controversy which have been identified by the Commission or the presiding officer in the prehearing conference order entered at the conclusion of that prehearing conference. (emphasis added).

<sup>1/</sup> This list of documents was not included in the "Discovery Request" filed with the Amended Petition on January 25, 1984 but was forwarded in an additional filing with the Licensing Board dated January 27, 1984.

Since the first prehearing conference to consider petitions to intervene has not yet been held,<sup>2/</sup> and no contentions have yet been admitted for litigation, Section 2.740(b) prohibits discovery at this time.<sup>3/</sup>

While the NRC Staff will fully respond to proper discovery requests if and when Petitioners are admitted as parties, the issues in controversy are identified, and discovery is opened, that time has not yet arrived. The Staff objects to the instant discovery request and urges that it be denied.

Respectfully submitted,

  
Mitzi A. Young  
Counsel for NRC Staff

Dated at Bethesda, Maryland  
this 15th day of February 1984

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<sup>2/</sup> By Licensing Board order of December 20, 1983, that prehearing conference has been scheduled for February 28, 1984.

<sup>3/</sup> 10 CFR § 2.740(b)(1) by its terms also limits requests for discovery to parties. Until Petitioners are found to have standing to intervene and to have proffered at least one admissible contention, they are not parties entitled to discovery.

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

Docket Nos. 50-250 OLA  
50-251 OLA

I hereby certify that copies of "NRC STAFF'S OBJECTION TO PETITIONER'S DISCOVERY REQUEST" in the above-captioned proceeding have been served on the following by deposit in the United States mail, first class, or as indicated by an asterisk, by deposit in the Nuclear Regulatory Commission's internal mail system, this 15th day of February 1984:

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