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Florida Power & Light Company, P.O. Box 14000, Juno Beach, FL 33408-0420

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Mr. John C. Hoyle
Secretary of the Commission
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001
Attn: Rulemakings and Adjudications Staff

OFFICE OF THE
REGULATORY
ADMINISTRATIVE

DOCKET NUMBER
PROPOSED RULE **PR 2 + 51**
(63FR48644)

Subject: Florida Power & Light Company Comments
Notice of Proposed Rulemaking
Streamlined Hearing Process for NRC Approval of License Transfers
63 Fed. Reg. 48644 (Sept. 11, 1998)

Dear Mr. Hoyle:

Florida Power & Light Company (FPL), the licensee for the St. Lucie Nuclear Plant, Units 1 and 2, and the Turkey Point Nuclear Plant, Units 3 and 4, hereby submits the following comments on the above-referenced Notice of Proposed Rulemaking. FPL also endorses the comments of the Nuclear Energy Institute on the proposed rule.

FPL supports the proposal to further streamline the Nuclear Regulatory Commission's (NRC) adjudicatory process by eliminating administrative steps for license transfer applications that provide no added protection to the public health and safety. FPL agrees that the proposed rule will enable NRC to accomplish timely reviews of license transfer applications and thereby promote efficient industry restructuring that will enable newly formed entities to preserve nuclear energy as a viable option in the 21st century.

In this regard, FPL concurs with the NRC's findings that support the proposal to add a new Subpart M to 10 CFR Part 2 to govern license transfer proceedings:

1. License transfer applications generally involve no changes to plant operations or operating personnel, and no changes to the reasonable assurance of public health and safety.
2. Formal adjudicatory hearings in contested cases involving license transfers are not required by the Atomic Energy Act or the Administrative Procedure Act.
3. Administrative license amendments involve no safety questions and clearly involve no significant hazards considerations. Therefore, conforming license amendments should be issued before the completion of any hearing requested on the transfer application.
4. License transfers involving changes to corporate forms of ownership of nuclear power plants

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involve no environmental impacts, and therefore, license transfer applications should be categorically excluded from environmental review pursuant to 10 CFR 51.22(c).

FPL offers additional suggestions on how to further accomplish the important goal of reaching final adjudicatory decisions in a timely and efficient fashion.

First, FPL believes that the informal hearing process should be extended to all NRC adjudicatory proceedings. There is no reason why informal hearings cannot be applied to license renewal proceedings and enforcement proceedings to streamline those proceedings. The proposed process can readily accommodate technical and legal issues that could be raised in those contexts without reducing public participation in NRC adjudicatory proceedings.

Second, FPL does not believe that the Commissioners should personally be involved in developing an evidentiary record as contemplated in the proposed rule. While FPL strongly supports close Commission oversight of the Presiding Officer to ensure compliance with the Rules of Practice and with Commission orders, FPL believes that it would be an inefficient use of the time of each Commissioner to take evidence in proceedings that will not generally involve issues of public health and safety.

Third, FPL believes that allowing all parties to make oral presentations and evidence in every license transfer proceeding could defeat the underlying purpose of the proposed rule: to streamline license transfer proceedings. Since the Commission has wide latitude to fashion the rules of practice that apply to adjudicatory proceedings, the oral presentation of evidence should be limited to those situations in which the Commission believes that the proposed license transfer could have an impact on the public health and safety.

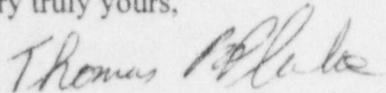
Fourth, FPL supports the concept of Commission action to ensure timely completion of license transfer proceedings. However, FPL questions whether "milestones" will in fact prevent lengthy proceedings. To ensure efficiency in this process, FPL recommends that the final rule specifically require automatic Commission review in the event that any of the schedular "milestones" are exceeded by a Presiding Officer. The Commission should freely exercise interlocutory review to ensure compliance with the Rules of Practice and with Commission scheduling orders.

Finally, the Commission should apply the concepts as discussed in its Policy Statement on Conduct of Adjudicatory Proceedings as added assurance that informal hearings on license transfer applications are conducted in an efficient manner. For example, the Commission should require the following in a final rule on license transfers: (1) procedures for electronic filing; (2) strict enforcement of parties' obligations by striking material from the record or dismissing a party from the proceeding for failure to comply with the Rules of Practice or with Commission procedural orders; (3) strict adherence with Commission requirements on standing, admissibility of contentions, and late intervention; and (4) specific Commission authorization before a Presiding Officer may proceed on an issue raised sua sponte.

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FPL appreciates the opportunity to comment on the proposed rule on license transfers.

Very truly yours,

A handwritten signature in cursive script, appearing to read "Thomas F. Plunkett".

Thomas F. Plunkett
President
Nuclear Division