

June 10, 1988

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

_____)	
In the Matter of)	
FLORIDA POWER AND LIGHT COMPANY)	Docket No. 50-335-OLA
)	
(St. Lucie Plant, Unit No. 1))	(ASLBP No. 88-560-01-LA)
)	
_____)	

LICENSEE'S OPPOSITION TO INTERVENOR'S
MOTION FOR AMENDMENT OF HEARING SCHEDULE

Introduction

On June 10, 1988 Florida Power & Light Company ("FPL" or "Licensee") received, through the offices of the NRC Staff, a copy of Intervenor's Motion for Amendment of Hearing Schedule ("Motion"). 1/ In the Motion, Intervenor requests that the Board modify the schedule established in the May 20, 1988 Memorandum and Order "by extending each deadline ninety days." For the reasons presented below, FPL is of the view that Intervenor has not made a sufficient showing to warrant the grant of an extension, and requests that the Motion be denied.

1/ Licensee has not otherwise been served with a copy of the Motion and, except for the information supplied by the NRC Staff, would have been unaware that the Motion had been filed.

Argument

In support of the Motion, Intervenor lists the following factors:

- 1) Intervenor is acting as a pro se litigant and his full-time job and other work activities severely interfere with this meeting schedule.
- 2) Intervenor is still seeking legal counsel and feels he will be unable to do so by this schedule.
- 3) None of the parties will be adversely effected by the granting of this Motion. The Amendment to rerack has already been issued and Licensee has already reracked. Thus this process will not be affected or in any way delayed.

These reasons, however, clearly do not constitute good cause for an extension of time.

First -- addressing the factors in inverse order -- Intervenor's statement that "[n]one of the parties will be adversely effected by the granting of this Motion" is incorrect. A number of allegations have been raised within the context of this proceeding which question the safety of activities undertaken by FPL. Licensee believes that they are without merit and will so demonstrate during the course of future proceedings. Nevertheless, these allegations have received considerable publicity. Both the public and FPL are entitled to a prompt determination by the NRC concerning the matters at issue.

Second, the fact that Intervenor is now seeking legal counsel cannot justify a schedule delay. Close to ten months have passed since notice was published in the Federal Register offering an opportunity for a hearing, 2/ and it has been almost two months since issuance of the Board's Memorandum and Order granting Intervenor's Request for Hearing and Petition for Leave to Intervene. 3/ There has been ample time to obtain legal counsel. Delay should not be permitted to beget delay.

Finally, the fact that Intervenor is employed full-time and acting as a pro se litigant does not justify modifying the current schedule. FPL and NRC Staff personnel involved in this proceeding likewise have other obligations sufficient to occupy them full-time. As Licensee noted in opposing an earlier request for a three-month delay, 4/ the Commission

2/ 52 Fed. Reg. 32,852 (Aug. 31, 1987).

3/ The Memorandum and Order was dated April 20th of this year.

4/ Licensee's Opposition to Petitioner's Request for a 92-Day Postponement of Prehearing Conference (Mar. 14, 1988).

has stated:

Fairness to all involved in NRC's adjudicatory procedures requires that every participant fulfill the obligations imposed by and in accordance with applicable law and Commission regulations. While a board should endeavor to conduct the proceeding in a manner that takes account of the special circumstances faced by the participant, the fact that a party may have personal or other obligations or possess fewer resources than others to devote to the proceeding does not relieve that party of its hearing obligations.

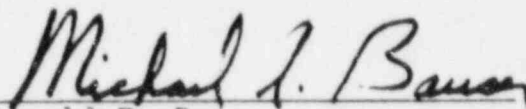
Statement of Policy on the Conduct of Licensing Proceedings,

CLI-81-8, 13 NRC 452, 454 (1981).

Conclusion

For the foregoing reasons, the Motion should be denied. 5/

Respectfully submitted,



Harold F. Reis
Michael A. Bauser

Dated: June 10, 1988

Co-Counsel:
John T. Butler

Steel Hector & Davis
4100 Southeast Financial
Center
Miami, Florida 33131-2398

Telephone: (305) 577-2939

Newman & Holtzinger, P.C.
1615 L Street, N.W., Suite 1000
Washington, D.C. 20036

Telephone: (202) 955-6600

5/ There may come a point when it is clear that additional time is necessary. For example, motions for summary disposition will have to be filed well in advance of the September 15th cutoff date in the current schedule if Board rulings are to be expected prior to the October 7th due date for prefiled testimony. However, there is sufficient time for Intervenor -- or any other party -- to request additional time, when and if a specific deadline problem arises.

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

_____)
In the Matter of)
)
FLORIDA POWER AND LIGHT COMPANY) Docket No. 50-335-OLA
)
) (ASLBP No. 88-560-01-LA)
(St. Lucie Plant, Unit No. 1))
)
_____)

CERTIFICATE OF SERVICE

I hereby certify that copies of Licensee's Opposition to Intervenor's Motion for Amendment of Hearing Schedule were served on the following by deposit in the United States mail, first class, postage prepaid and properly addressed, on the date shown below:

B. Paul Cotter, Jr., Chairman
Atomic Safety and Licensing Board Panel
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Glenn O. Bright
Atomic Safety and Licensing Board Panel
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Dr. Richard F. Cole
Atomic Safety and Licensing Board Panel
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Adjudicatory File
Atomic Safety and Licensing Board Panel Docket
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555
(Two copies)

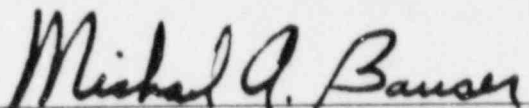
Secretary
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Attention: Chief, Docketing and Service Section
(Original plus two copies)

Benjamin H. Vogler, Esq.
Office of General Counsel
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Mr. Campbell Rich
4626 S.E. Pilot Avenue
Stuart, Florida 34997

Dated this 10th day of June, 1988.


Michael A. Bauser

Newman & Holtzinger, P.C.
1615 L Street, N.W.
Washington, D.C. 20036

Telephone: (202) 955-6600

Counsel for
Florida Power & Light Company