

11/19/79

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the matter of)	Docket Nos. <u>50-250-SP</u>
)	50-251-SP
FLORIDA POWER AND LIGHT COMPANY)	
)	(Proposed Amendments to Facility
(Turkey Point Nuclear Generating)	Operating License to Permit
Units Nos. 3 and 4))	Steam Generator Repair)
)	

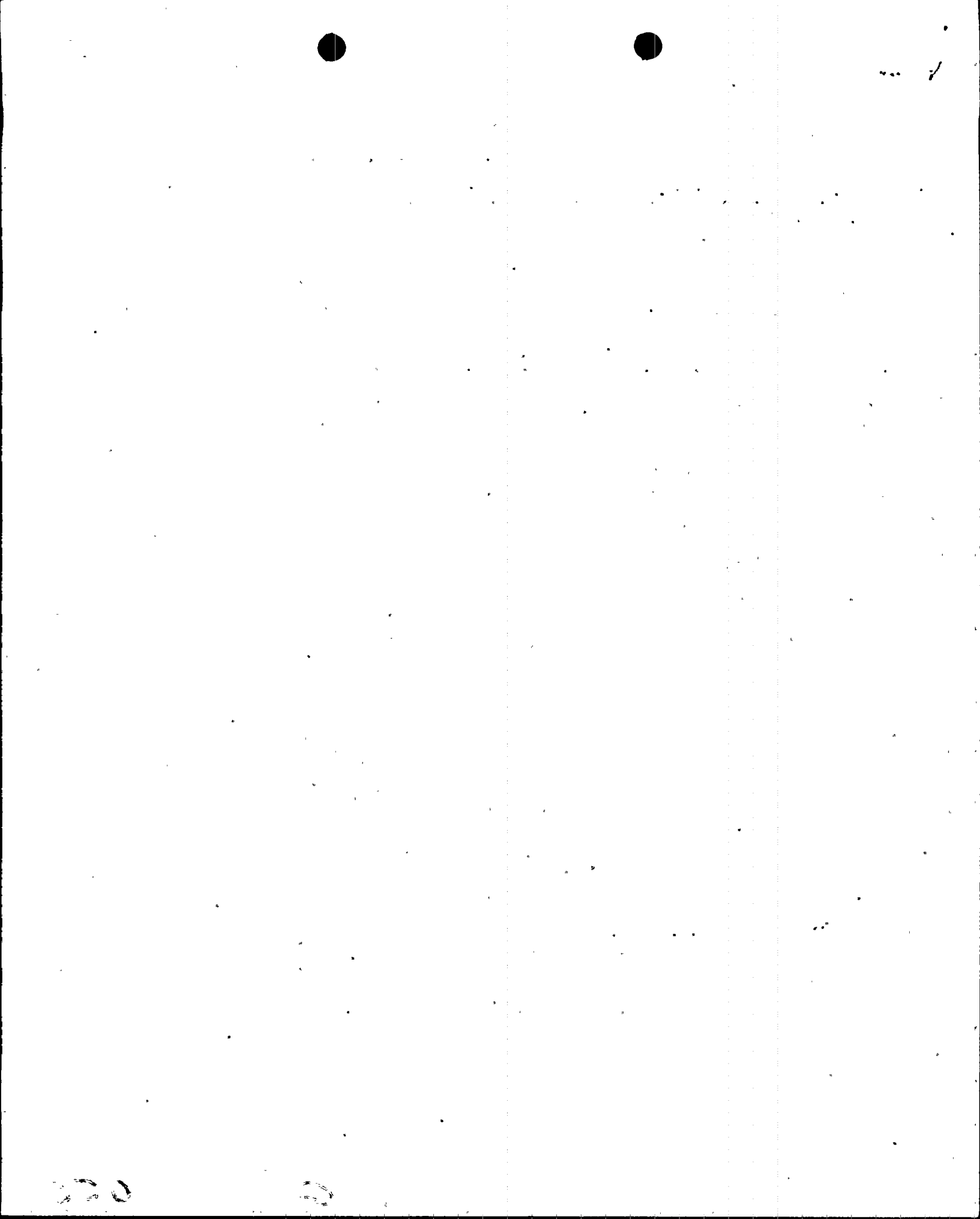
RESPONSE OF FLORIDA POWER AND LIGHT COMPANY TO
INTERVENOR'S MOTION FOR EXTENSION OF TIME TO
RESPOND TO OBJECTIONS TO INTERROGATORIES

Florida Power and Light Company (FPL) has no objection to Intervenor's motion for an extension of time of ten (10) days within which to respond to FPL's objections to some of his interrogatories.

FPL accepts the invitation in footnote 3 of the Board's Order Relating to Discovery and Scheduling to supplement FPL's response containing objections to Intervenor's voluminous interrogatories. FPL expects to have the supplement filed expeditiously.

In view of the recent events, FPL has some observations about the course of these proceeding which it feels compelled to make as part of this response.

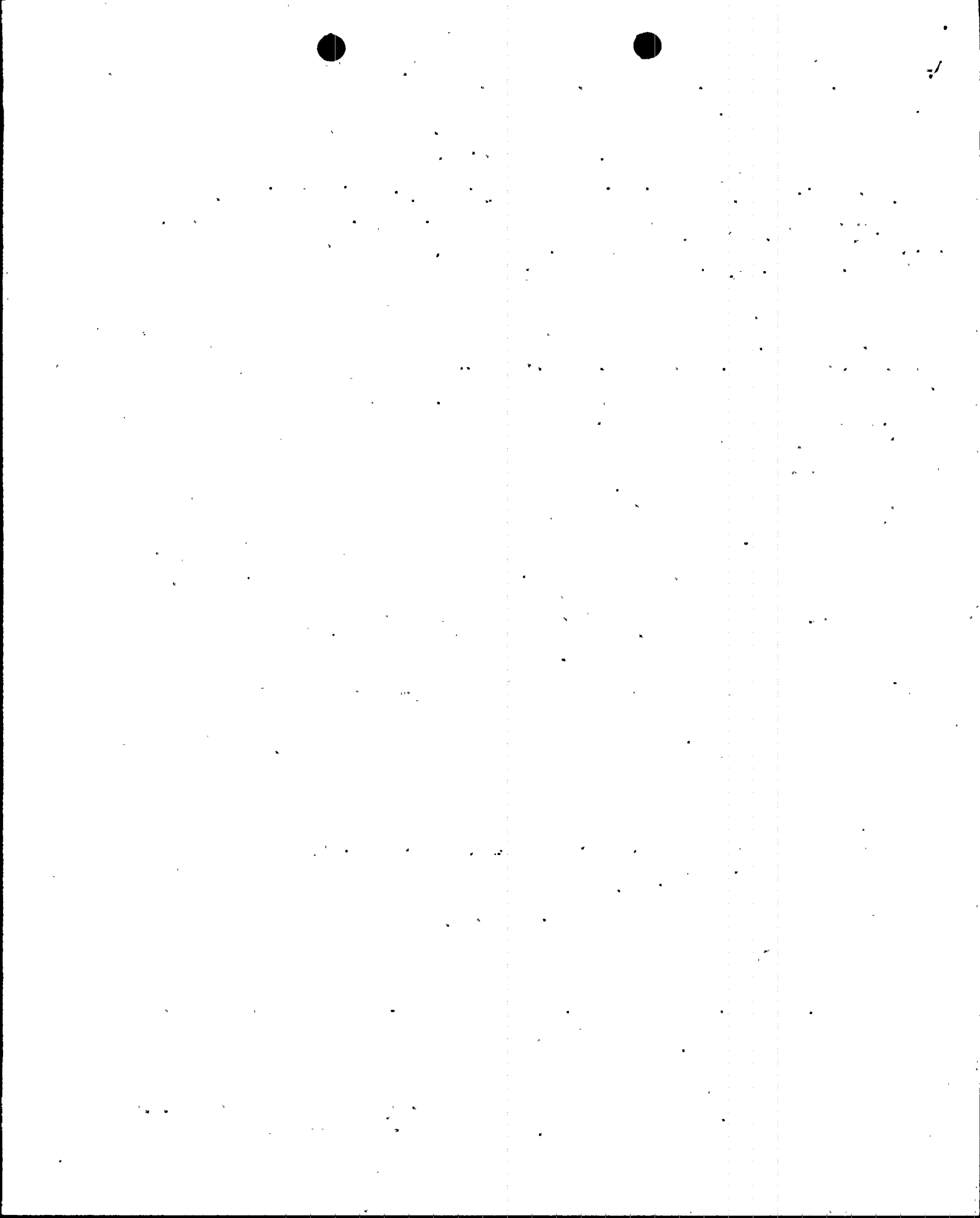
Intervenor's petition for intervention was filed over a year late. The petition was granted by the Board in part because of representations made by Intervenor's counsel about the commitment to the representation of Intervenor. In a telegram dated May 23, 1979, the Board was informed that



nine lawyers have agreed to represent Intervenor should the petition be allowed. In a Supplemental Submission dated June 5, 1979, Intervenor confirmed (page 8) the "commitment of counsel to this case" and referred again to the "commitments from several other South Florida lawyers to assist in the preparation of this case if Mr. Oncavage does become an Intervenor." In that submission, the Board was also told (pp. 3-4) that Intervenor had obtained "commitments" from Dr. K. Z. Morgan and Walter Goldberg as technical experts who would address problems, analyze consequences, and prepare testimony explaining their conclusions, with that testimony being based, in part, on "...data presently available from published sources." (Supplemental Submission, pp. 3-4).

Intervenor created legitimate expectations that he would prepare diligently for a hearing that would be conducted without "serious delay or a broadening of the proceedings." (Supplemental Submission, p. 8). A prehearing schedule was adopted by the Board in reliance upon those expectations.

But now, there is a delay. The date for filing prepared written testimony has been postponed. The hearing date has been cancelled. This delay has been brought on by the late filing by Intervenor of interrogatories containing over two thousand subparts. The Intervenor has accused FPL of petulance and arrogance, and, on a more serious level, of trying to avoid responses to Intervenor's interrogatories. Intervenor's counsel now complains that they are serving on a pro bono basis, have other obligations, have limited resources, intend to do no work on their response until the Board rules on their instant motion, and will withdraw from the proceeding if certain demands are not met.



FPL is neither petulant nor arrogant. It has not engaged in sinister strategies. It desires to make repairs to its steam generators in a timely manner consistent with all applicable laws and regulations and the health and safety of the public. It had been working towards that end for many months before Mr. Oncavage assumed the status of Intervenor, has been since then, and will continue to do so.

Nor is FPL avoiding responding to legitimate discovery. FPL's counsel told the Board that it would try to respond to unobjectionable interrogatories and had begun the process of doing so even before the Board's November 15, 1979 Order.

FPL is troubled, however, by the frustration of expectations created just a few months ago by Intervenor. Interrogatories to Intervenor from the Nuclear Regulatory Commission Staff remain unanswered. The month of September and virtually all of the month of October went by without word from Intervenor about any problems he might be having in discovery or hearing preparation. Thereafter, voluminous discovery was filed, which by any standard is burdensome and, at a minimum, evidences no concern for expedition.

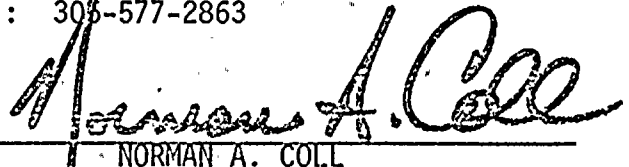
FPL is hopeful that these events do not change the expected conduct of the proceedings upon which the intervention was, in part, originally premised. Despite these events, FPL is working towards a hearing in the near future to resolve the contentions before the Board. FPL is prepared to cooperate with the Board and the parties to achieve this objective with a minimum of delay.

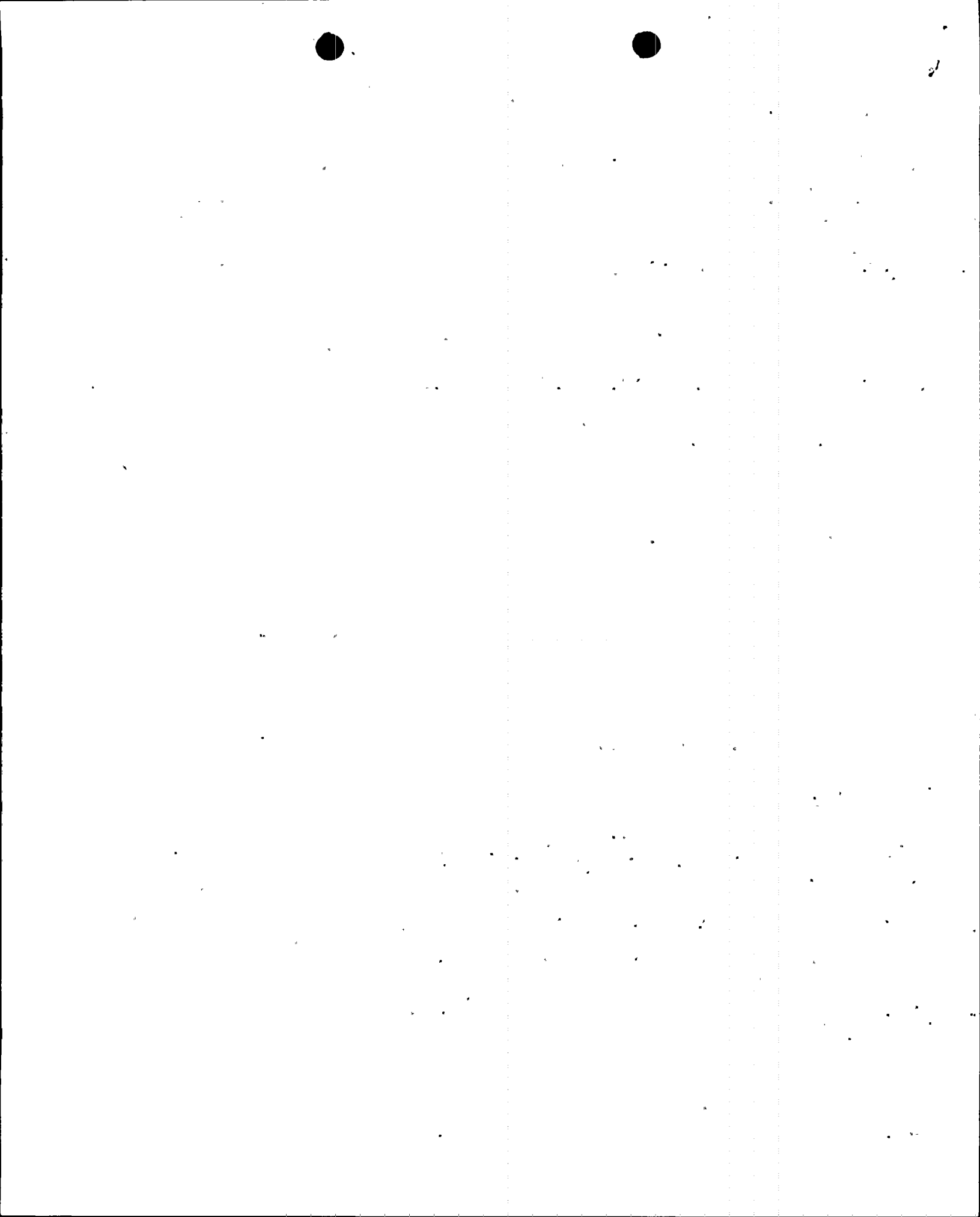
Respectfully submitted,

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Dated: November 19, 1979.

By


NORMAN A. COLL



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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that copies of the attached "Response of Florida Power and Light Company to Intervenor's Motion for Extension of Time to Respond to Objections to Interrogatories" and captioned in the above matter were served on the following,

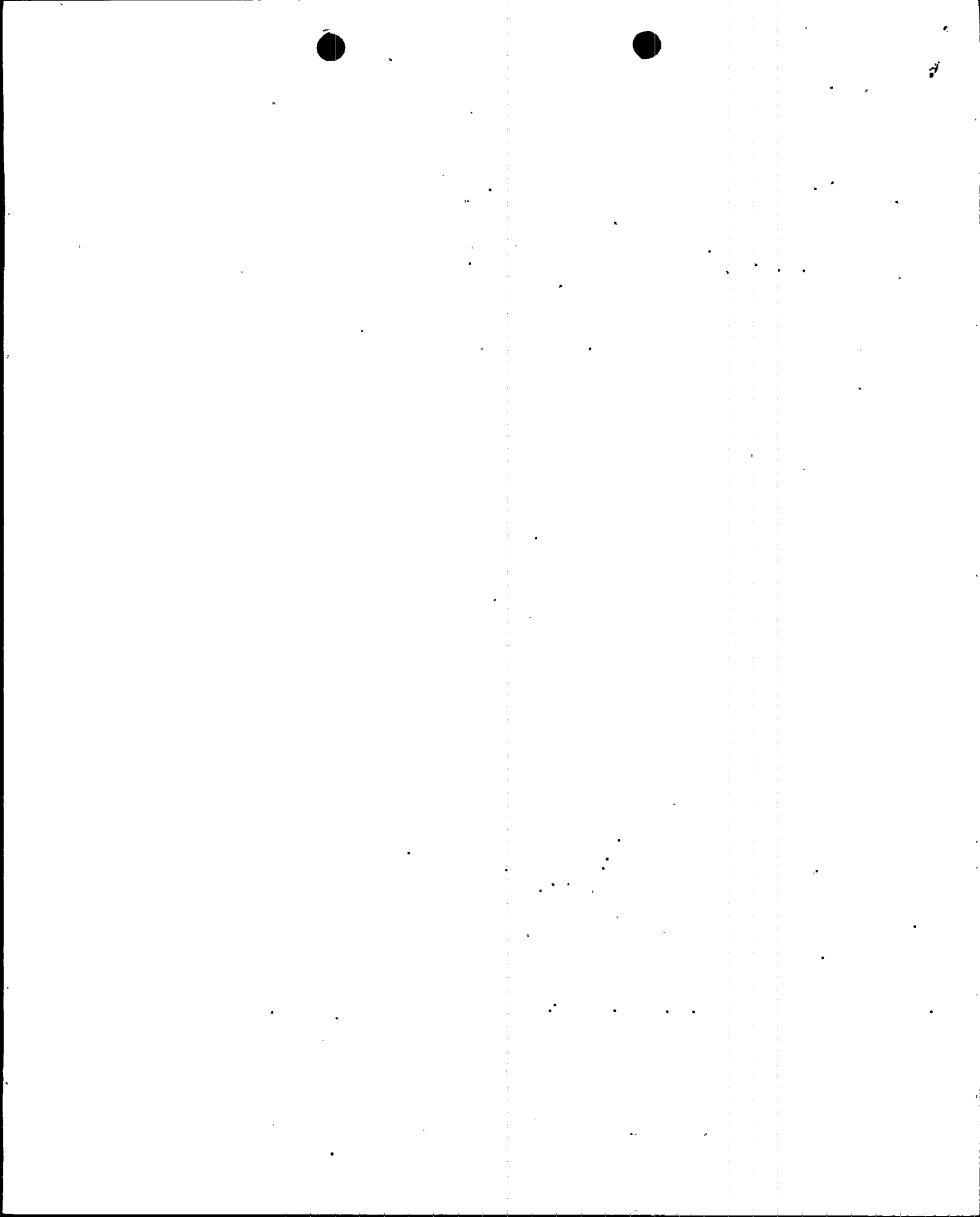
by deposit in the United States mail, first class, properly stamped
and addressed, on the date shown below

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Dated: November 19, 1979

*Delivered to Choice Courier Systems, on November 19, 1979
for immediate hand delivery.

