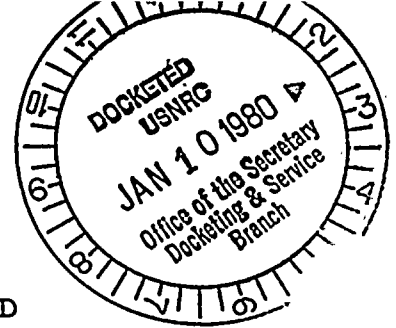


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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD



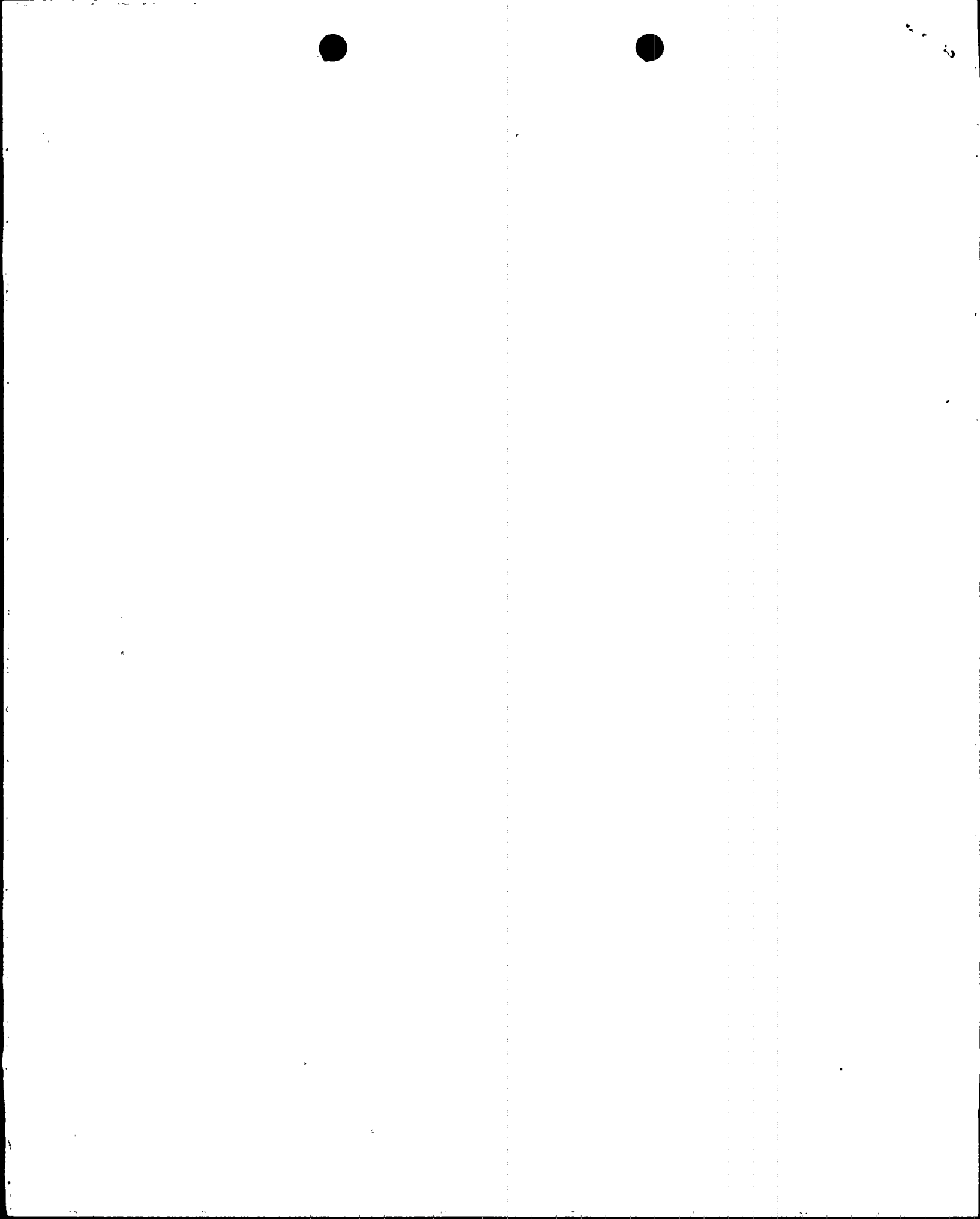
In the Matter of	)	Docket Nos. 50-250-SP
	)	50-251-SP
FLORIDA POWER & LIGHT COMPANY)	
	)	(Proposed Amendments to
(Turkey Point Nuclear Generating	)	Facility Operating Licenses
Unit Nos. 3 and 4)	)	to Permit Steam Generator
	)	Repair)

LICENSEE'S RESPONSE TO NRC STAFF
MOTION TO COMPEL DISCOVERY OF INTERVENOR

On December 17, 1979, the Intervenor filed his answers to the NRC Staff's interrogatories. He objected to several interrogatories and failed to respond to several others. On December 27, 1979, the NRC Staff filed a motion to compel, which requested that the Licensing Board order the Intervenor to answer these interrogatories. The Licensee hereby submits its response in support of the Staff's motion to compel.

After reviewing the Staff's interrogatories to the Intervenor, the Licensee determined that they would elicit information which is significant and relevant to this proceeding. The Licensee was especially interested in the interrogatories concerning the bases for the Intervenor's contentions and the reasons for his attacks upon the sufficiency of the Steam Generator Repair Report and the Staff's documents. This information would be valuable to the Licensee in the preparation of its affirmative case. For the reasons stated by

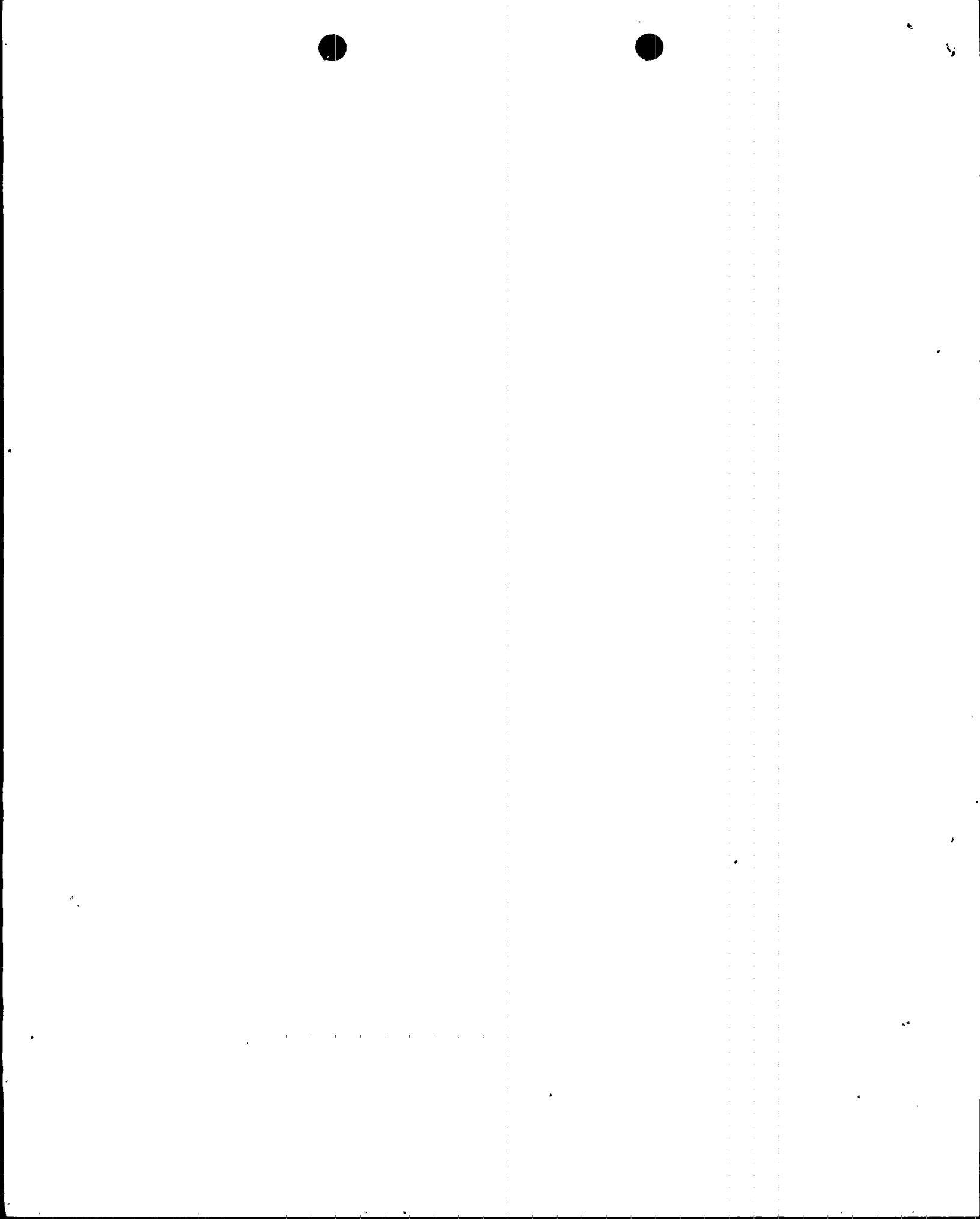
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the NRC Staff, the Licensee believes that this information is subject to discovery.

As indicated in its "Memorandum of Licensee Relating to Untimely Discovery" of November 7, 1979, p. 9, the Licensee refrained from serving its own interrogatories upon the Intervenor in order to avoid burdening him unnecessarily and in the belief that the responses to the Staff's interrogatories would supply the required information. Consequently, the Licensee has a significant interest in obtaining responses to the interrogatories.

However, Licensee wishes to make it clear that its support of the motion to compel is not based upon the Staff's statement (p. 5) that the Intervenor was required by 10 CFR § 2.740(f)(1) to apply for a protective order even "where an objection to discovery is lodged." Licensee believes the statement not to constitute a correct interpretation of the provision and certainly not to constitute a description of prevailing practice. For present purposes, and without briefing the question in detail, it appears to be sufficient to point to one recent precedent. On November 17, 1978, the Atomic Safety and Licensing Board issued a "Memorandum and Order Ruling on Motions to Compel Discovery" in Northern States Power Company (Minnesota), Northern States Power Company (Wisconsin), et al. (Tyrone Energy Park, Unit 1), Docket No. STN 50-484. There the Board stated (pp. 2-3):



The cited portion of §2.740(f) does lend itself to some confusion but does not lead to the illogical result urged by the Intervenor. As Permittees point out, the Commission's rule parallels a similar provision of the Federal Rules of Civil Procedure where, in Rule 37(d), the phrase "failure to act" appears instead of "failure to answer or respond." The NRC rule also means "failure to act" in accordance with the rest of the discovery rules which anticipate that a party must act upon discovery requests either by answering them with the requested information, by objecting to them, or by seeking a protective order under §2.740(c). Nothing in the NRC discovery rules would require a party to apply for an unnecessary protective order as a condition precedent to making an objection to, say, a totally irrelevant interrogatory.

Accordingly, Licensee agrees with the Staff's position with respect to interrogatories which the Intervenor wholly failed to address. However, to the extent that the Staff motion suggests that a request for a protective order is required with respect to an interrogatory which has been expressly objected to, it is, in our view, mistaken.

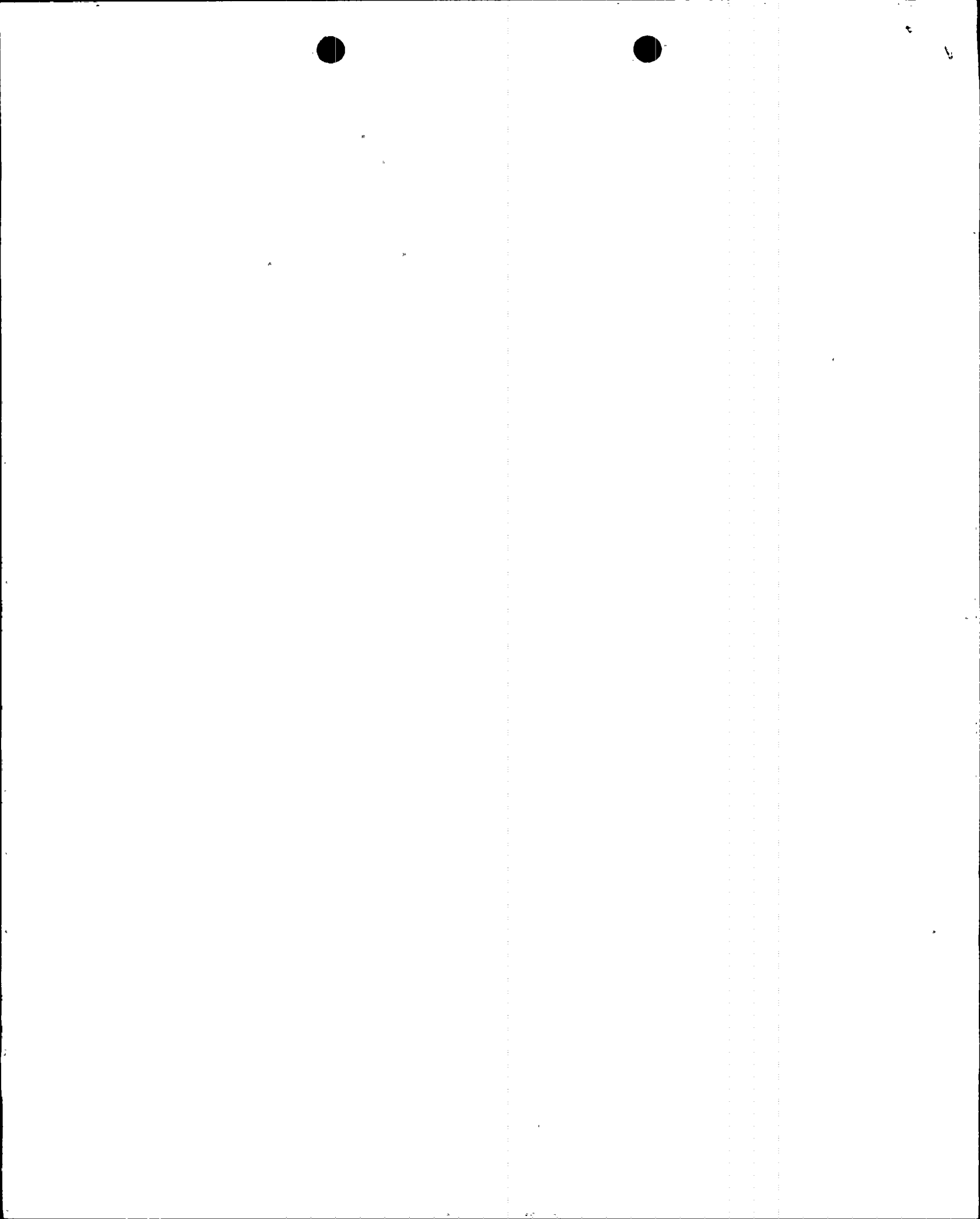
Respectfully submitted,



Harold F. Reis

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January 9, 1980



UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of	)	Docket Nos. 50-250-SP
	)	50-251-SP
FLORIDA POWER & LIGHT COMPANY)	
(Turkey Point Nuclear Generating	)	(Proposed Amendments to
Unit Nos. 3 and 4)	)	Facility Operating Licenses
	)	to Permit Steam Generator
	)	Repair)

CERTIFICATE OF SERVICE

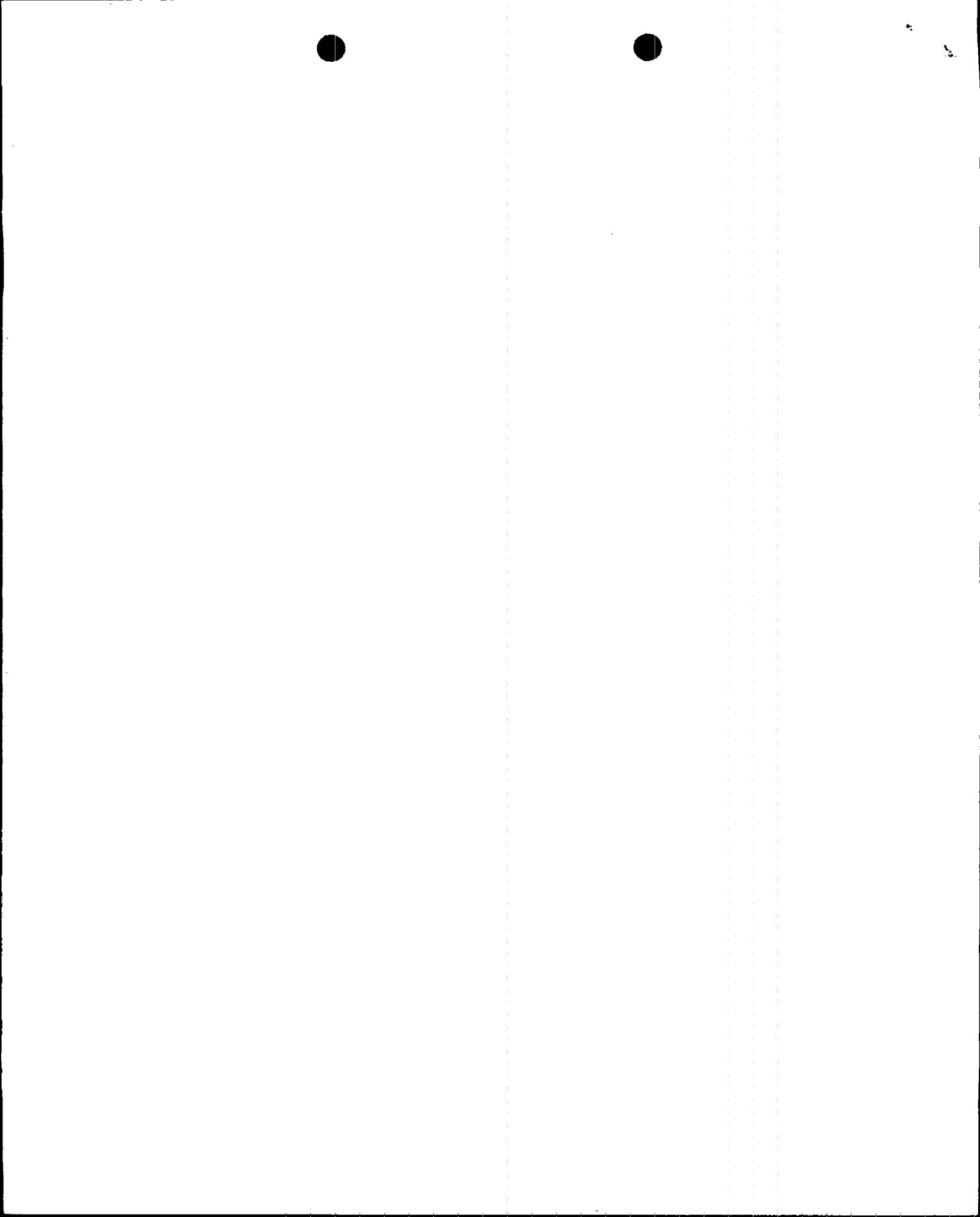
I hereby certify that copies of the attached "Licensee's Response to NRC Staff Motion to Compel Discovery of Inter-venor," captioned in the above matter, was served on the following by deposit in the United States mail, first class, properly stamped and addressed, on the date shown below:

Elizabeth S. Bowers, Esq.
Chairman
Atomic Safety and Licensing Board Panel
U. S. Nuclear Regulatory Commission
Washington, DC 20555

Dr. Oscar H. Paris
Atomic Safety and Licensing Board Panel
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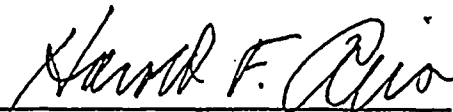
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