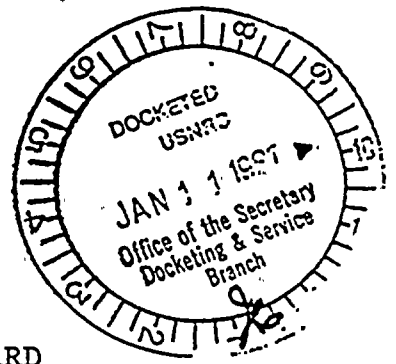


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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION



BEFORE THE ATOMIC SAFETY & LICENSING BOARD

In the Matter of

Docket Nos. 50-250-SP
50-251-SP

FLORIDA POWER & LIGHT COMPANY

(Turkey Point Nuclear Generating
Units Nos. 3 and 4)

(Proposed Amendments to
Facility Operating License
To Permit Steam Generator
Repair)

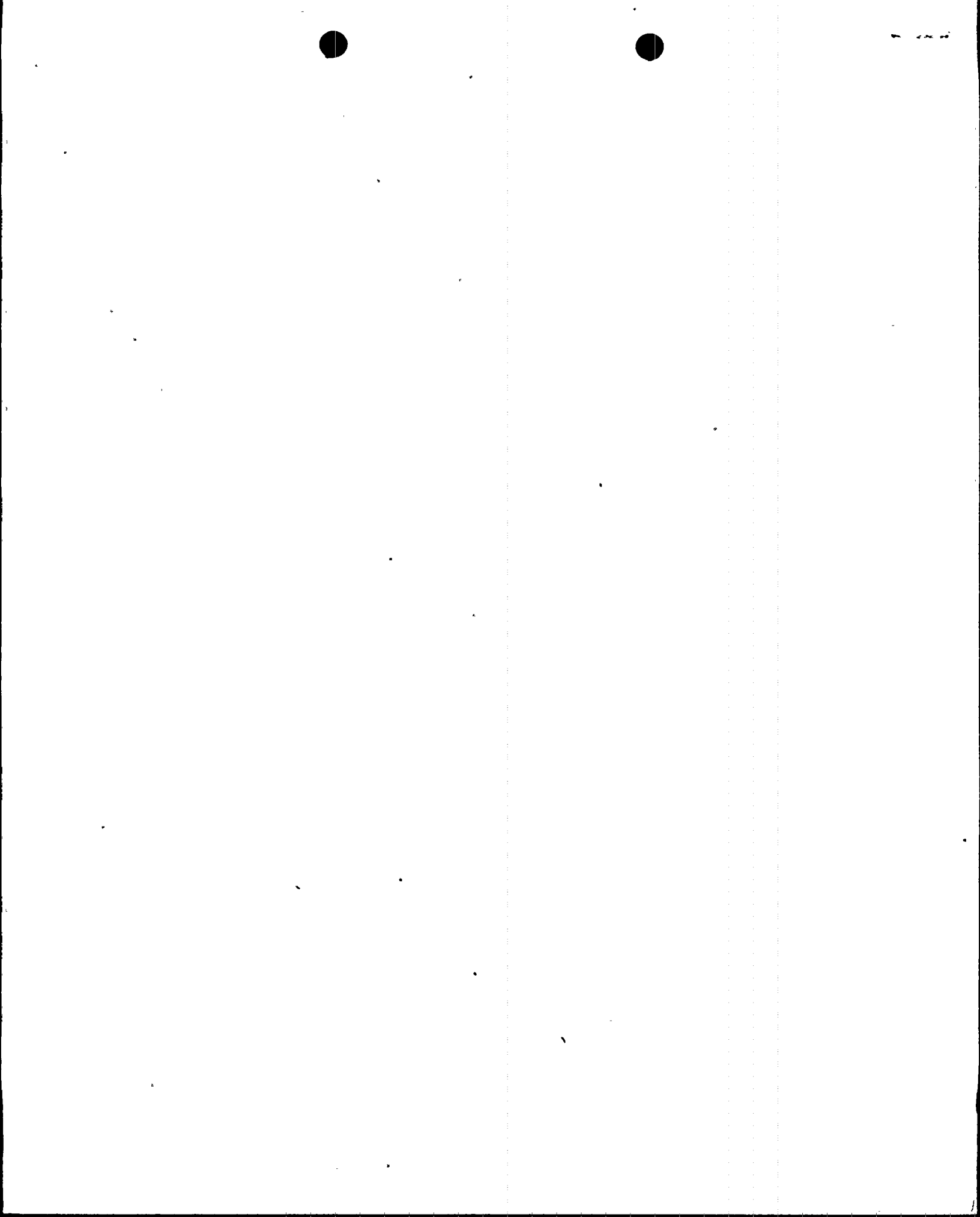
NOTICES OF APPEARANCE FOR INTERVENOR

NEIL CHONIN hereby enters his Notice of Appearance as Counsel for Intervenor, MARK P. ONCAVAGE, 12200 S. W. 110th Avenue, Miami, Florida. I certify that I am admitted to practice by the Supreme Court of Florida; the United States District Court for the Southern District of Florida; the United States Court of Appeals for the Fifth Circuit and the Supreme Court of the United States.

HENRY H. HARNAGE hereby enters his Notice of Appearance as Counsel for Intervenor, MARK P. ONCAVAGE, 12200 S. W. 110th Avenue, Miami, Florida. I certify that I am admitted to practice by the Supreme Court of Florida; the United States District Court for the Southern District of Florida; the United States Court of Appeals for the Fifth Circuit, and the Supreme Court of the United States.

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Respectfully submitted,

Neil Chonin

NEIL CHONIN

Law Offices of Neil Chonin, P.A.
New World Tower Building, 30th Floor
100 N. Biscayne Boulevard
Miami, Florida 33132
Tel. (305) 377-3023

Henry H. Harnage

HENRY H. HARNAGE

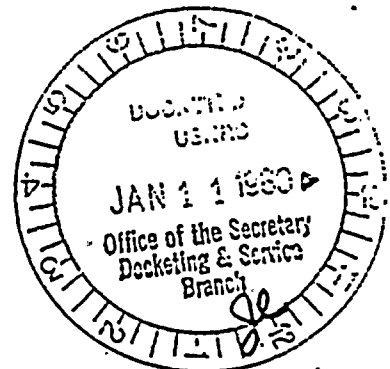
Peninsula Federal Bldg., 10th Flr.
200 S. E. First Street
Miami, Florida 33131
Tel. (305) 3774501

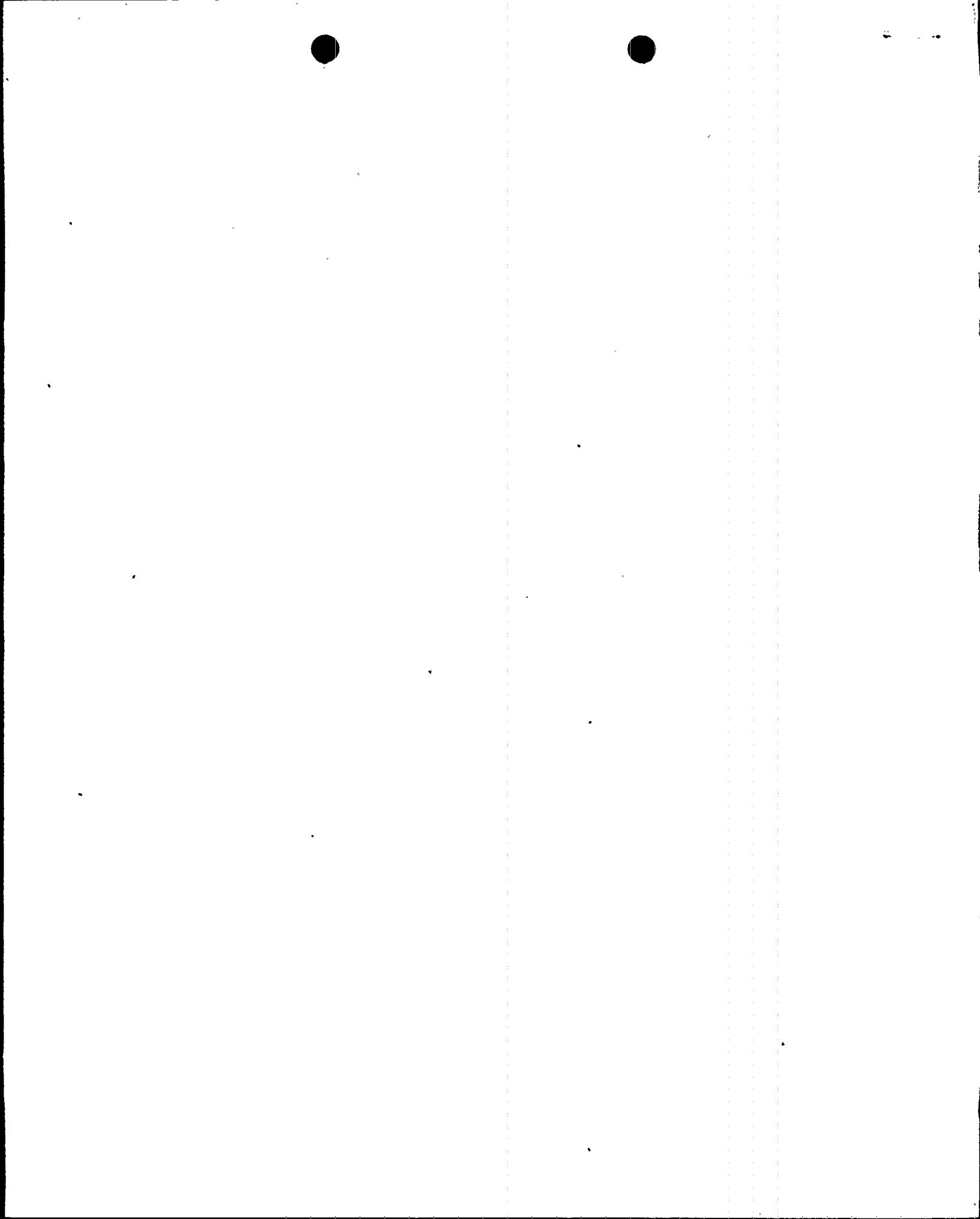
CERTIFICATE OF SERVICE

I HEREBY CERTIFY that copies of the attached Notices of Appearance For Intervenor was served on the following by deposit in the United States mail, First Class, properly stamped and addressed on January, , 1980:

Elizabeth S. Bowers, Esq.
Chairperson
Atomic Safety and Licensing Board Panel
U. S. Nuclear Regulatory Commission
Washington, D. C. 20555

Dr. Oscar H. Paris
Atomic Safety & Licensing Board Panel
U. S. Nuclear Regulatory Commission
Washington, D. C. 20555





Dr. Emmeth A. Luebke
Atomic Safety and Licensing Board Panel
U. S. Nuclear Regulatory Commission
Washington, D. C. 20555

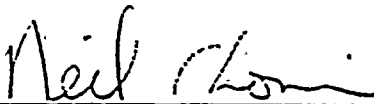
Atomic Safety & Licensing Board Panel
U. S. Nuclear Regulatory Commission
Washington, D. C. 20555

Docketing and Service Section
Office of the Secretary
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Steven C. Goldberg, Esq.
U.S. Nuclear Regulatory Commission
Office of the Executive Legal Director
Washington, D.C. 20555

Norman A. Coll, Esq.
Steel, Hector & Davis
1400 S.E. First National Bank Bldg.
Miami, Florida 33131

Harold F. Reis, Esq.
Lowenstein, Newman, Reis, Axelrad & Toll
1025 Connecticut Avenue, N. W.
Washington, D.C. 20036


NEIL CHONIN
Law Offices of Neil Chonin, P.A.
New World Tower Bldg., 30th Flr.
100 N. Biscayne Blvd.
Miami, Florida 33132
Tel. (305) 377-3023

New York State Department of Environmental Conservation
50 Wolf Road, Albany, New York 12233

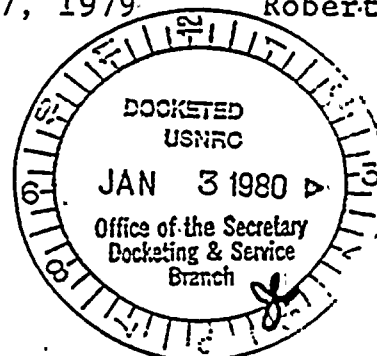


XXXXXX
Commissioner

December 27, 1979

Robert F. Flacke

The Honorable Samuel R. Madison
Secretary
Board on Electric Generation Siting
and the Environment
Department of Public Service
Three Rockefeller Plaza
Albany, New York 12223



Re: Case No. 80008 - New Haven Units 1 and 2
Applicant's Motion for Rehearing

Dear Mr. Madison:

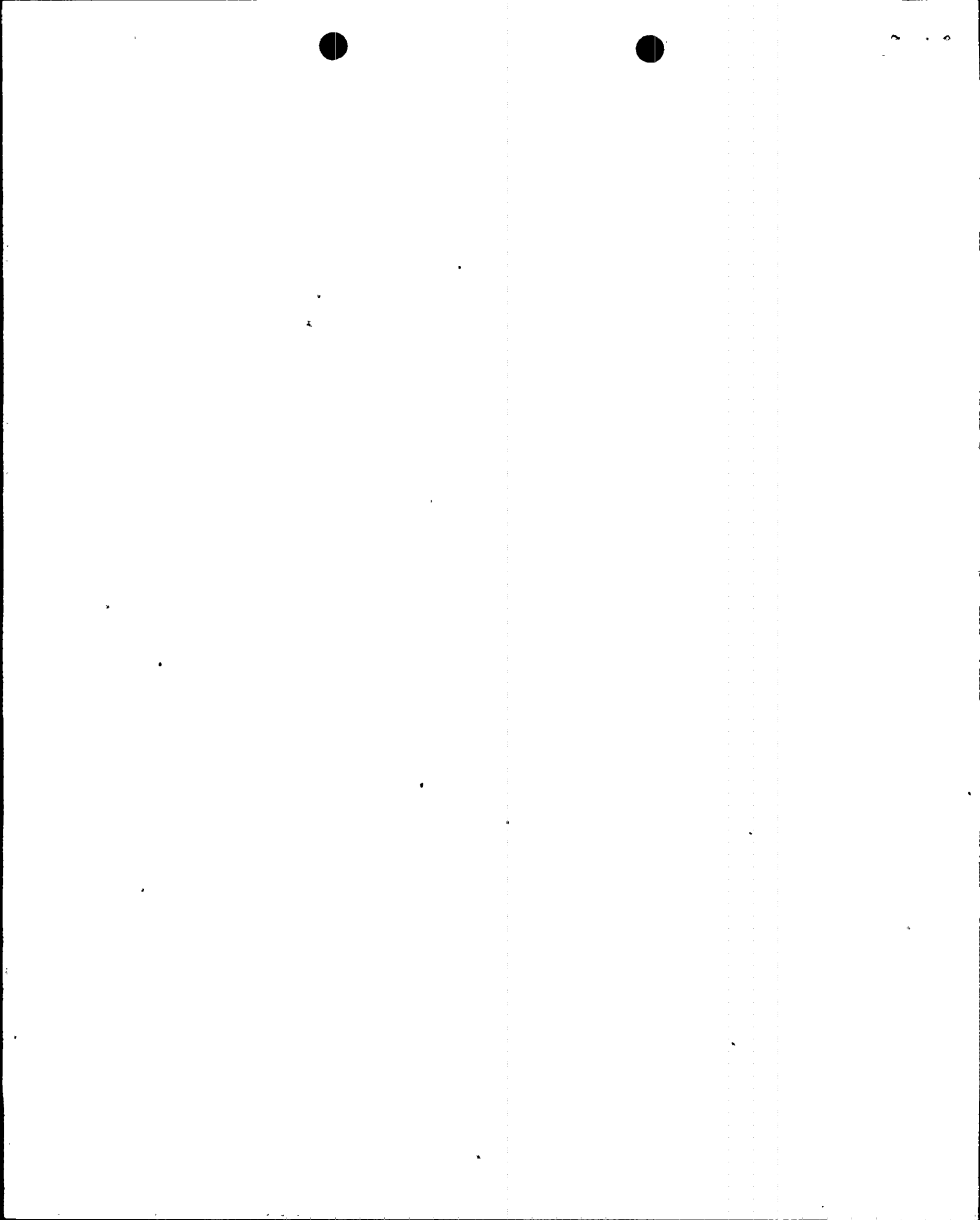
Having reviewed the response by Department of Public Service to Applicant's Motion, we wish to highlight the point made therein that individual Article VIII applications must not be viewed as being in mutually exclusive universes.

In the past, DEC has been concerned by dissimilar "facts" being proffered on separate records, such "evidence" being tailored to fit the assertions as needed. We strongly believe that parties should be held accountable for such inconsistencies.

On at least one occasion, the Public Service Commission has concurred in this proposition. In Case No. 80003 (Jamesport), DEC had sought to have that Board take into its record statements made in Case No. 80002 (Somerset) by a party to both. Our argument proceeded as follows:

...even if a slight burden [on Applicant] were created, it would be only that which would be necessary for NYSEG to explain how Rider's Cayuga/Somerset testimony is somehow not relevant or does not bear on his credibility. This is only burdensome to the extent that such an explanation is difficult to formulate.

It is our view that there is no burden, but only a difficulty for NYSEG in rehabilitating the tarnished credibility of its witness. Yet even a



real burden must be balanced against the Board's legitimate interest in knowing the substance of the subject testimony, to wit: that NYSEG knows neither the extent to which insulation obtains in its service territory, nor what load-dampening benefits could be anticipated from increasing insulation standards for new electric space heating customers.

Examiner Suss' unwillingness to take notice of Rider's extra-tribunal admission against interest reflects a possible unquestioning acceptance of NYSEG's need presentation.

It should be understood that DEC's motion is solely intended for the purpose of showing that Rider (as the personification of NYSEG) has made a statement under oath and subject to cross-examination which casts grave doubts upon the reasonableness of NYSEG's load forecasts. The evidentiary principle which permits admission of such evidence is so well established that it is codified at Civil Practice Law and Rules §4514, has been reaffirmed numerous times, including in Caplan v. City of New York, 34 A.D.2d 549, 309 N.Y.S.2d 859 (2nd Dept., 1970), and has even been applied to criminal proceedings [People v. Johnson, 27 N.Y.2d 119, 313 N.Y.S.2d 728 (1970) -- inadmissible confession can be used to impeach] and disclosures of grand jury minutes [People v. DiNapoli, 27 N.Y.2d 229, 316 N.Y.S.2d 622 (1970) -- Public Service Commission Staff could see secret minutes].

Additionally, it is clear that the only party which could be prejudiced would be NYSEG; however, since NYSEG is a party to Cayuga/Somerset, there is no due process issue.

Finally, we believe that this Board should and does want to know about such deficiencies as may have existed in NYSEG's forecasting methods. [Appeal of Ruling on Motions for Official Notice (Dec: 2, 1977) 3-4]

The Commission's action on DEC's Motion established a most telling and crucial precedent fully applicable herein:

We believe that DEC is free to argue on brief to the Siting Board that the Board should look at the testimony of NYSEG's witness in Case 80002. It need not be formally incorporated into the record for that purpose. [Order Denying Appeal (Jan. 17, 1978) 2]

Having been so notified two years ago in another proceeding, this Applicant cannot now be heard to claim that it can exclude from this record damaging admissions made elsewhere.

Sincerely,

David A. Engel

David A. Engel
Senior Attorney for Energy

cc: Member of the Siting Board
Presiding Examiner Matias
Associate Examiner Schwartz
Members of the Atomic Safety
and License Board
All Parties

