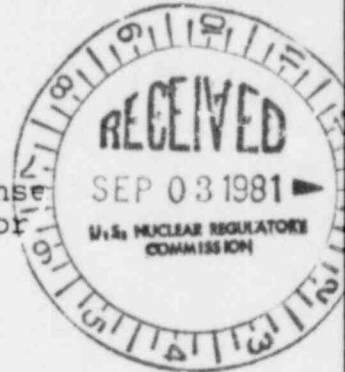


UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING APPEAL BOARD



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



LICENSEE'S RESPONSE IN OPPOSITION TO MOTION OF
JOEL JAFFER FOR LEAVE TO FILE AMICUS CURIAE
BRIEFS AND TO BE SERVED WITH NOTICES AND PLEADINGS

Florida Power & Light Company (FPL) has received, together with a pleading filed by Joel Jaffer in the United States Court of Appeals for the District of Columbia Circuit, a motion by Mr. Jaffer, dated August 21, 1981 and requesting "leave to appear herein as amicus curiae, and to be served with all notices and pleadings herein whatsoever pursuant to 10 CFR 2.715." The pleadings served upon FPL do not indicate that the motion has been properly filed. However, this response is submitted in opposition to Mr. Jaffer's motion in the event the Appeal Board decides to consider it.

FPL submits that the motion does not present a sufficient case for the favorable exercise of discretion by the Board pursuant to 10 CFR § 2.715(d). That provision requires any brief of an amicus curiae to "be filed within the time allowed to the party whose position the brief will support."

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Although the motion does not refer to the "position the brief will support . . . ," it appears from the related pleading filed in the Court of Appeals that Mr. Jaffer opposes the action of the Licensing Board here on review and, therefore, will support the position of the Intervenor. The time for the filing of the Intervenor's briefs had already passed and those briefs had in fact been filed by August 21, 1981, when the instant motion was submitted. Intervenor's last brief was filed on August 6, 1981; both the NRC Staff and FPL have already filed their initial briefs.

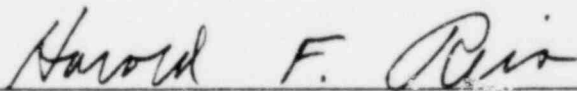
Despite Mr. Jaffer's statement that he "has interests therein unprotected by the existing parties . . . ," his claim of interest is based on his residence "in Dade County Florida, within 20 miles of the Turkey Point plant" In this respect, his interest is in fact no different than that of the Intervenor who lives "approximately 15 miles from the Turkey Point station." Order Ruling on the Petition of Mark P. Oncavage, LBP-79-21, 10 NRC 183, 189, 190 (1979). Nothing in the motion or the attached pleading suggests that it is likely that Mr. Jaffer will make any substantial contribution in an amicus brief.

Finally, contrary to Mr. Jaffer's statement, 10 CFR § 2.715 does not provide for service of notice and pleadings upon an amicus curiae. FPL submits that grant of the motion

in that respect would be burdensome and could unduly complicate this proceeding. See Joel Jaffer v. Miami Beach Redevelopment Agency, 392 So.2d 1305 (S.Ct. Fla. 1980), dismissing Mr. Jaffer's "appeal seeking review of a circuit court order denying him relief in a proceeding to which he was not a party."

Persons, other than interested governmental bodies (10 CFR § 2.715(c), who were not parties to the proceedings before a licensing board may not be parties in the appeal of its decision. Metropolitan Edison Co. (Three Mile Island Nuclear Generating Station, Unit 2), ALAB-454, 7 NRC 39 (1978); Kansas Gas & Electric Co. (Wolf Creek Nuclear Generating Station, Unit No. 1), ALAB-311, 3 NRC 85, 88 (1976); Cleveland Electric Illuminating Co. (Perry Nuclear Power Plant, Units 1 and 2), ALAB-294, 2 NRC 663, 664 (1975). Imposition of the requirement that Mr. Jaffer be served with all notices and pleadings would confer upon him a privilege to which only a party is entitled.

Respectfully submitted,



Harold F. Reis

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Counsel for Licensee,
Florida Power & Light Company

August 27, 1981

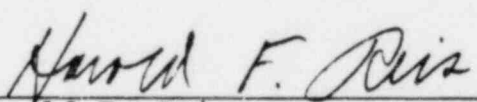
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY THAT copies of the foregoing "Licensee's Response In Opposition To Motion Of Joel Jaffer For Leave To File Amicus Curiae Briefs And To Be Served With Notices And Pleadings" were served on the individuals whose names appear on the attached service list by deposit in the United States mail, first class, properly stamped and addressed, on this 27th day of August, 1981.



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Attachment

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

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