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October 31, 1978

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Re: Florida Power & Light Co. (St. Lucie
Plant, Unit No. 2), Docket No. 50-389A

Gentlemen:

The Florida Municipal Utilities Association, the Fort Pierce Utilities Authority of the City of Fort Pierce, the Gainesville-Alachua County Regional Electric Water and Sewer Utilities, the Lake Worth Utilities Authority, the Utilities Commission of the City of New Smyrna Beach, the Orlando Utilities Commission, the Sebring Utilities Commission, and the Cities of Alachua, Bartow, Fort Meade, Key West, Lake Helen, Mount Dora, Newberry, St. Cloud, and Tallahassee, Florida ("Florida Cities") submit herewith their "Initial Interrogatories and Request for Production of Documents by Applicant" in the above-captioned proceeding. They also join in the "First Joint Request of the NRC Regulatory Staff, United States Department of Justice and Intervenors for Interrogatories and for Production of Documents by Applicant," filed today in the above-captioned proceeding.

The statement of issues relevant to this proceeding as outlined in the October 30, 1978 letter to the Atomic Safety and Licensing Board Panel written by the NRC Regulatory Staff on behalf of Staff, the Department of Justice and Florida Cities, is understood by Florida Cities to neither state a legal position

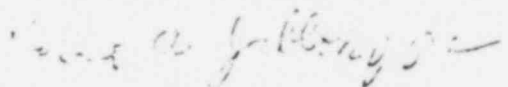


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as to the requirements for an adverse finding against Applicant under Section 105 (c) of the Atomic Energy Act, nor to preclude argument concerning the appropriate legal tests for such a Section 105 (c) finding. Assuming that the resolution of these issues as stated, individually or in combination, is not such that it can be determined that Applicant has violated the antitrust laws, Florida Cities interpret the issues as stated to encompass and permit further argument that a situation inconsistent with the antitrust laws exist because Applicant has attempted to do the conduct specified, Applicant has violated the policies of the antitrust laws or Section 5 of the Federal Trade Commission Act. An adverse finding could be based on a standard less stringent than proof of an actual violation. Florida Cities make this statement solely to avoid a waiver and to permit them to argue what the applicable standard should be. They recognize that the parties may disagree as to the applicable standard.

In joining the issues urged by the NRC Regulatory Staff and the Department of Justice, Florida Cities do not allege violations of anticompetitive conduct by Florida Power Corporation. However, it is Florida Cities' position that in light of the relevant markets in Florida and Applicant's economic power in those markets, Applicant has acted such that violations of Section 1 of the Sherman Act have occurred. It is Florida Cities' position that they do not have to allege or prove independent illegal conduct by Florida Power Corporation to establish a Sherman Act Section 1 violation by Florida Power & Light Company, and they do not here put in issue the legality of conduct by Florida Power Corporation.

Respectfully submitted,


Robert A. Jablon
Attorney for the Florida Municipal
Utilities Association, the Fort Pierce
Utilities Authority of the City of
Fort Pierce, the Gainesville-Alachua
County Regional Electric Water and
Sewer Utilities, the Lake Worth
Utilities Authority, the Utilities
Commission of the City of New Smyrna
Beach, the Orlando Utilities Commission,
and the Cities of Alachua, Bartow,
Fort Meade, Key West, Lake Helen,
Mount Dora, Newberry, St. Cloud, and
Tallahassee, Florida

cc w/Enclosure: All parties