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June 6, 1997

Ms. Blanca S. Bayó, Director  
Division of Records and Reporting  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, FL 32399-0850

Re: Docket No.: 970261-EI

Dear Ms. Bayó:

Enclosed herewith for filing with the Commission in the above-referenced docket is the original and fifteen (15) copies of the Prehearing Statement of The Florida Consumer Action Network, and fifteen (15) copies of my letter to Julia L. Johnson, Chairman, requesting to be excused from attending the Prehearing Conference. Also enclosed is a 3.5 inch diskette containing the above referenced documents in WordPerfect format.

Please acknowledge your receipt of the above filing on the enclosed copy of this letter and return to the undersigned in the enclosed self-addressed, stamped envelope.

ACK \_\_\_\_\_  
AFA 2 Thank you for your assistance.

APP \_\_\_\_\_

CAF \_\_\_\_\_

CMU \_\_\_\_\_

CTR \_\_\_\_\_

EAG 3

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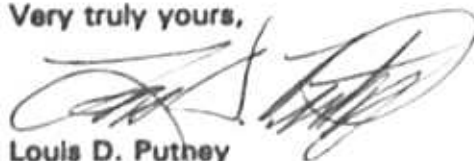
OPC 2 Enclosures

RCH \_\_\_\_\_  
SEC 1 cc: Parties of Record

WAS \_\_\_\_\_

OTH \_\_\_\_\_

Very truly yours,



Louis D. Putney

*Prehearing Stat*  
DOCUMENT NUMBER-DATE  
05699 JUN-96  
FPSC-RECORDS/REPORTING

*Johnson letter*  
DOCUMENT NUMBER-DATE  
05700 JUN-96  
FPSC-RECORDS/REPORTING

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15  
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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Review of Nuclear Outage  
at Florida Power Corporation's  
Crystal River Unit No. 3

Docket No. 970261-EI

**PREHEARING STATEMENT OF  
THE FLORIDA CONSUMER ACTION NETWORK**

The Florida Consumer Action Network ("FCAN"), through the undersigned counsel and pursuant to Rule 25-22, Florida Administrative Code, and the Order Establishing Procedure entered herein, hereby files its Prehearing Statement in the above-styled proceeding, and states:

(a) The name of all known witnesses that may be called by FCAN, and the subject matter of their testimony are as follows:

1. Stewart D. Ebnetter, Regional Administrator, United States Nuclear Regulatory Commission, Region II, 101 Marietta Street, N.W., Suite 2900, Atlanta, Georgia 30323-0199. FCAN expects to elicit testimony establishing:

a. The current outage is the consequence of Florida Power Corporation's ineffective management oversight of engineering, operations, and corrective action activities which occurred for a period of several years leading up to the outage;

b. This same ineffective management has resulted in numerous violations by Florida Power Corporation of serious nuclear safety regulations of the Nuclear Regulatory Commission resulting in the imposition of civil penalties against the company, including penalties imposed on July 10, 1996, totaling \$500,000, which were not contested by Florida Power; and

c. The Nuclear Regulatory Commission has investigated and discovered the pervasive nature of Florida Power Corporation's ineffective management oversight of engineering, operations, and corrective action activities, and even if the initial cause of the outage did not exist, the Nuclear Regulatory Commission would not at this time allow Florida Power Corporation to operate the nuclear plant.

2. Investigators (names unknown at this time), United States Nuclear Regulatory Commission, Region II, 101 Marietta Street, N.W., Suite 2900, Atlanta, Georgia. FCAN expects

DOCUMENT NUMBER-DATE

05699 JUN-95

FISC RECORDS/REPORTING

to elicit testimony establishing the same facts as stated above.

3. Any of the witnesses listed or called to testify by the other parties to this proceeding, to establish the same facts as stated above.

(b) A description of all known exhibits that may be used by FCAN, whether they may be identified on a composite basis, and the witness sponsoring each, are as follows:

1. Notice of Violation and Proposed Imposition of Civil Penalties - \$500,000, dated July 10, 1996, with enclosure, to be introduced through the NRC witnesses listed above, P. M. Beard, Jr., Gary L. Boldt, B.J. Hickle, L. C. Kelley, or Rodney E. Gaddy.

2. Communications between Florida Power and the NRC, as yet undiscovered, to be introduced through the NRC witnesses listed above, P. M. Beard, Jr., Gary L. Boldt, B.J. Hickle, L. C. Kelley, or Rodney E. Gaddy.

3. Any of the exhibits listed or introduced by the other parties to this proceeding.

(c) A statement of FCAN's basic position in the proceeding is as follows:

The Commission has temporarily granted Florida Power Corporation's request for recovery from its ratepayers of replacement fuel costs of approximately \$90 million incurred due to the current extended outage at its Crystal River No. 3 nuclear plant, subject to the Commission's review of the causes of the outage. The outage in question is the consequence of Florida Power Corporation's ineffective management oversight of engineering, operations, and corrective action activities which occurred for a period of several years leading up to the outage. This same ineffective management has resulted in numerous violations by Florida Power Corporation of serious nuclear safety regulations of the Nuclear Regulatory Commission resulting in the imposition of civil penalties against the company, including penalties imposed on July 10, 1996, totaling \$500,000. Florida Power Corporation did not contest the \$500,000 civil penalty.

This same ineffective management allowed the conditions to develop that ultimately resulted in the current outage, which was otherwise avoidable and unnecessary. The Nuclear Regulatory Commission has investigated and discovered the pervasive nature of Florida Power Corporation's ineffective management oversight of engineering, operations, and corrective action activities, and even if the initial cause of the outage did not exist, the Nuclear Regulatory Commission would not at this time allow Florida Power Corporation to operate the nuclear plant, and therefore, the initial cause of the outage is irrelevant and can not be used to excuse Florida

Power Corporation for the current outage.

(d) A statement of each question of fact FCAN considers at issue, FCAN's position on each such issue, and which of FCAN's witnesses will address the issue, are as follows:

1. Whether the initial shut down of the Crystal River nuclear plant on September 2, 1996, was the result of prudent actions on the part of Florida Power.

FCAN -- No.

2. Whether the continuing shut down of the plant is the result of prudent actions on the part of Florida Power.

FCAN -- No.

3. Whether the initial and continuing outage at the Crystal River nuclear plant is the consequence of Florida Power Corporation's ineffective management oversight of engineering, operations, and corrective action activities which occurred for a period of several years leading up to the outage, and therefore not the result of prudent actions on the part of Florida Power.

FCAN -- Yes.

4. Whether, due to ongoing investigations by the NRC and numerous violations by Florida Power Corporation of serious nuclear safety regulations of the NRC, including violations resulting in the imposition of civil penalties against the company on July 10, 1996, totaling \$500,000, the NRC would have shut down the nuclear plant on or at some time after September 2, 1996, and thereafter not allow Florida Power to operate the nuclear plant, thereby rendering Florida Power's argument as to the initial or continuing cause of the outage irrelevant.

FCAN -- Yes.

5. Whether Florida Power Corporation is excessively disconnecting its load management customers as a result of the Crystal River No. 3 outage?

FCAN -- Yes.

(e) A statement of each question of law FCAN considers at issue and the FCAN's position on each such issue are as follows: none at this time.

(f) A statement of each policy question FCAN considers at issue, FCAN's position on each such issue, and which of FCAN's witnesses will address the issue, are as follows: none at this time.

(g) A statement of issues that have been stipulated to by the parties are as follows: none at this time.

(h) A statement of all pending motions or other matters FCAN seeks action upon are as follows:

1. By letter to Julia L. Johnson, as Hearing Officer herein, FCAN is seeking to be excused from appearing at the Prehearing Conference set herein for June 17, 1997.

2. FCAN does not support the Motion of Lake Dora Harbour Homeowners Association, Inc., for Establishment of Hearing Schedule to Allow Reasonable Discovery.

(i) A statement as to any requirement set forth in this order that cannot be complied with, and the reasons therefore, are as follows: none at this time.

(j) In response to the request of the staff to state a position on each of the staff's preliminary issues, as faxed to FCAN on June 3, 1997, FCAN would state as follows:

1. Was Florida Power Corporation's decision to shut-down Crystal River Unit No. 3 on September 2, 1996 prudent?

FCAN -- Yes, due to Florida Power Corporation's prior mismanagement.

2. Did Florida Power Corporation's efforts to reduce costs, including downsizing and reduced reliance on contracted Crystal River Unit No. 3 engineering support, inappropriately reduce its attention to safety?

FCAN -- No position at this time.

3. Was Florida Power Corporation prudent in its approach of using engineering interim solutions through modifications to the Emergency Diesel Generator loading instead of implementing more permanent solutions?

FCAN -- No.

4. Did Florida Power Corporation respond prudently to information affecting the operation of Crystal River Unit No. 3 including, but not limited to, employee concerns, modifications made at other Babcock & Wilcox plants, Nuclear Regulatory Commission requirements and the results of the company's own problem corrections?

FCAN -- No.

5. Should the modification being performed during the current extended outage have been accomplished during previous planned outages?

FCAN -- No position at this time.

6. Did Florida Power Corporation display a pattern of management decisions at

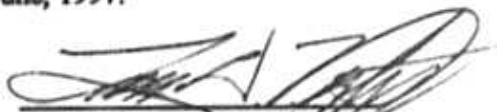
Crystal River Unit No. 3 that resulted in the current extended outage?

FCAN -- Yes.

7. Based on the resolution of the previous issues, what amount of estimated replacement fuel costs, if any, should be disallowed for recovery by Florida Power Corporation?

FCAN -- No position at this time.

Respectfully submitted this 6<sup>th</sup> day of June, 1997.



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Action Network

Certificate of Service

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by U.S. Mail to the persons on the attached service list on this 6<sup>th</sup> day of June, 1997.

  
Louis D. Putney, Esquire

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Louis D. Putney, Esquire

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**Docket No. 970261-EI**

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