

The Burger Court Opinion Writing Database

Florida Power & Light Co. v. Lorion

470 U.S. 729 (1985)

Paul J. Wahlbeck, George Washington University
James F. Spriggs, II, Washington University in St. Louis
Forrest Maltzman, George Washington University



Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
THE CHIEF JUSTICE

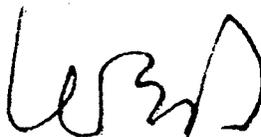
February 28, 1985

Re: No. 83-703 - Florida Power & Light Co. v. Lorion
83-1031 - U.S. Nuclear Regulatory Comm.
& U.S. v. Lorion

Dear Bill,

I join.

Regards,



Justice Brennan

Copies to the Conference

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To: The Chief Justice
Justice White
Justice Marshall
Justice Blackmun
Justice Powell
Justice Rehnquist
Justice Stevens
Justice O'Connor

From: **Justice Brennan**

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1st DRAFT

SUPREME COURT OF THE UNITED STATES

Nos. 83-703 AND 83-1031

**FLORIDA POWER & LIGHT COMPANY,
PETITIONER**

83-703

v.

JOETTE LORION, ETC., ET AL.

**UNITED STATES NUCLEAR REGULATORY COMMISSION
AND UNITED STATES, PETITIONERS**

83-1031

v.

JOETTE LORION ET AL.

**ON WRITS OF CERTIORARI TO THE UNITED STATES COURT OF
APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT**

[January —, 1985]

JUSTICE BRENNAN delivered the opinion of the Court.

This case requires us to decide whether 28 U. S. C. § 2342(4) and 42 U. S. C. § 2239 grant the federal courts of appeals exclusive subject matter jurisdiction initially to review decisions of the Nuclear Regulatory Commission to deny citizen petitions requesting that the Commission "institute a proceeding . . . to modify, suspend or revoke a license" 10 CFR § 2.206(a).

I

Respondent Joette Lorion, on behalf of the Center for Nuclear Responsibility, wrote the Nuclear Regulatory Commission on September 11, 1981, to express fears about potential safety threats at Petitioner Florida Power and Light Company's Turkey Point nuclear reactor near her home outside Miami, Florida. Her detailed letter urged the Commission

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STYLISTIC CHANGES THROUGHOUT.
PAGE: 5, 10, 11, 14

To: The Chief Justice
Justice White
Justice Marshall
Justice Blackmun
Justice Powell
Justice Rehnquist
Justice Stevens
Justice O'Connor

From: Justice Brennan

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2nd DRAFT

SUPREME COURT OF THE UNITED STATES

Nos. 83-703 AND 83-1031

FLORIDA POWER & LIGHT COMPANY,
PETITIONER

83-703

v.

JOETTE LORION, ETC., ET AL.

UNITED STATES NUCLEAR REGULATORY COMMIS-
SION AND UNITED STATES, PETITIONERS

83-1031

v.

JOETTE LORION ET AL.

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[March —, 1985]

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I

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Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE BYRON R. WHITE

January 24, 1985

83-703 and 83-1031-

Florida Power & Light Co. v. Lorion;
United States Nuclear Regulatory Comm'n
and United States v. Lorion

Dear Bill,

Please join me.

Sincerely yours,



Justice Brennan

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Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE THURGOOD MARSHALL

January 25, 1985

Re: Nos. 83-703 and 83-1031-Florida Power & Light Co and
US Nuclear Regulatory Commission v. Lorion

Dear Bill:

Please join me.

Sincerely,

JM

T.M.

Justice Brennan

cc: The Conference

Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE HARRY A. BLACKMUN

January 29, 1985

Re: No. 83-703) Florida Power & Light Co. v. Lorton
No. 83-1031) U.S. Nuclear Regulatory Comm'n v. Lorton

Dear Bill:

Please join me.

Sincerely,



Justice Brennan

cc: The Conference

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CHAMBERS OF
JUSTICE LEWIS F. POWELL, JR.

Supreme Court of the United States
Washington, D. C. 20543

February 13, 1985

83-703 Florida Power & Light v. Lorion

Dear Bill:

Please join me.

Sincerely,

Justice Brennan

lfp/ss

cc: The Conference

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Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE WILLIAM H. REHNQUIST

January 25, 1985

Re: No. 83-703) Florida Power & Light Co. v. Lorion
83-1031) United States Nuclear Regulatory Commission v.
Lorion

Dear Bill,

Please join me.

Sincerely,

Justice Rennan

cc: The Conference

Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE JOHN PAUL STEVENS

January 23, 1985

Re: 83-703 and 83-1031 - Florida Power
& Light v. Lorion

Dear Bill:

Unfortunately you have not persuaded me. I will be sending around a dissent as soon as I can get to it.

Respectfully,



Justice Brennan

Copies to the Conference

To: The Chief Justice
Justice Brennan
Justice White
Justice Marshall
Justice Blackmun
Justice Powell
Justice Rehnquist
Justice O'Connor

From: Justice Stevens

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SUPREME COURT OF THE UNITED STATES

Nos. 83-703 AND 83-1031

FLORIDA POWER & LIGHT COMPANY,
PETITIONER

83-703

v.

JOETTE LORION, ETC., ET AL.

UNITED STATES NUCLEAR REGULATORY COMMISSION AND UNITED STATES, PETITIONERS

83-1031

v.

JOETTE LORION ET AL.

ON WRITS OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT

[February —, 1985]

JUSTICE STEVENS, dissenting.

Anyone may write a letter to the Nuclear Regulatory Commission requesting it to initiate enforcement proceedings.¹ Today the Court holds that Congress has required review in the Court of Appeals whenever the Commission denies such a request. This holding is inconsistent with the plain language of the controlling statute and the Commission's regulations. It also ignores the heretofore settled principle of administrative law that "individual decisions [of an administrative agency] not to take enforcement action in response to citizen requests are presumptively not reviewable under the Administrative Procedure Act, 5 U. S. C. §§ 701-706." *Heckler v. Chaney*, — U. S. —, — (1985) (BRENNAN, J., concurring).

¹The Commission has adopted regulations specifying how such letters should be processed. See 10 C. F. R. § 2.206.

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Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE SANDRA DAY O'CONNOR

January 23, 1985

No. 83-703 Florida Power & Light Co. v.
Lorion
No. 83-1031 U.S. Nuclear Regulatory Comm.
and U. S. v. Lorion

Dear Bill,

Please join me.

Sincerely,



Justice Brennan

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