

November 19, 2002

Mr. J. A. Stall  
Senior Vice President, Nuclear and  
Chief Nuclear Officer  
Florida Power and Light Company  
P.O. Box 14000  
Juno Beach, FL 33408-0420

SUBJECT: ST. LUCIE, UNITS 1 AND 2, EXEMPTION FROM THE REQUIREMENTS OF  
10 CFR PART 54, SECTION 54.21(b) REGARDING SCHEDULE FOR  
SUBMITTING AMENDMENTS TO THE LICENSE RENEWAL APPLICATION  
(TAC NOS. MB3406 AND MB3412)

Dear Mr. Stall:

The Commission has approved the enclosed exemption from the specific requirements of Title 10 of the *Code of Federal Regulations* (10 CFR) Part 54, Section 54.21(b), for St. Lucie, Units 1 and 2.

A copy of the exemption and the supporting safety evaluation are enclosed. The exemption has been forwarded to the Office of the Federal Register for publication.

Sincerely,

**/RA/**

Noel F. Dudley, Senior Project Manager  
License Renewal and Environmental Impacts Program  
Division of Regulatory Improvement Programs  
Office of Nuclear Reactor Regulation

Docket Nos.: 50-335 and 50-389

Enclosures: 1. Exemption  
2. Safety Evaluation

cc w/encls: See next page

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RLEP RF  
Project Manager

**E-MAIL:**

PUBLIC  
J. Johnson  
W. Borchardt  
D. Matthews  
F. Gillespie  
RidsNrrDe  
R. Barrett  
E. Imbro  
G. Bagchi  
K. Manoly  
W. Bateman  
J. Calvo  
C. Holden  
P. Shemanski  
H. Nieh  
G. Holahan  
H. Walker  
S. Black  
B. Boger  
D. Thatcher  
G. Galletti  
C. Li  
J. Moore  
R. Weisman  
M. Mayfield  
A. Murphy  
W. McDowell  
S. Smith (srs3)  
T. Kobetz  
C. Munson  
RLEP Staff

-----

R. McIntyre  
C. Marco

Mr. J. A. Stall  
Florida Power and Light Company  
cc:

Senior Resident Inspector  
St. Lucie Plant  
U.S. Nuclear Regulatory Commission  
P.O. Box 6090  
Jensen Beach, Florida 34957

Craig Fugate, Director  
Division of Emergency Preparedness  
Department of Community Affairs  
2740 Centerview Drive  
Tallahassee, Florida 32399-2100

M. S. Ross, Attorney  
Florida Power & Light Company  
P.O. Box 14000  
Juno Beach, FL 33408-0420

Mr. Douglas Anderson  
County Administrator  
St. Lucie County  
2300 Virginia Avenue  
Fort Pierce, Florida 34982

Mr. William A. Passetti, Chief  
Department of Health  
Bureau of Radiation Control  
2020 Capital Circle, SE, Bin #C21  
Tallahassee, Florida 32399-1741

Mr. Donald E. Jernigan, Site Vice President  
St. Lucie Nuclear Plant  
6501 South Ocean Drive  
Jensen Beach, Florida 34957

Mr. R. E. Rose  
Plant General Manager  
St. Lucie Nuclear Plant  
6501 South Ocean Drive  
Jensen Beach, Florida 34957

Mr. J. T. Voorhees  
Acting Licensing Manager  
St. Lucie Nuclear Plant  
6501 South Ocean Drive  
Jensen Beach, Florida 34957

## ST. LUCIE PLANT

Mr. Don Mothena  
Manager, Nuclear Plant Support Services  
Florida Power & Light Company  
P.O. Box 14000  
Juno Beach, FL 33408-0420

Mr. Rajiv S. Kundalkar  
Vice President - Nuclear Engineering  
Florida Power & Light Company  
P.O. Box 14000  
Juno Beach, FL 33408-0420

Mr. J. Kammel  
Radiological Emergency  
Planning Administrator  
Department of Public Safety  
6000 SE. Tower Drive  
Stuart, Florida 34997

Attorney General  
Department of Legal Affairs  
The Capitol  
Tallahassee, Florida 32304

Mr. Steve Hale  
St. Lucie Nuclear Plant  
Florida Power and Light Company  
6351 South Ocean Drive  
Jensen Beach, Florida 34957-2000

Mr. Alan P. Nelson  
Nuclear Energy Institute  
1776 I Street, N.W., Suite 400  
Washington, DC 20006-3708  
APN@NEI.ORG

David Lewis  
Shaw Pittman, LLP  
2300 N Street, N.W.  
Washington, D.C. 20037

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION  
FLORIDA POWER AND LIGHT COMPANY, ET AL.  
ST. LUCIE, UNITS 1 AND 2  
DOCKET NOS. 50-335 AND 50-389  
EXEMPTION

1.0 BACKGROUND

The Florida Power and Light Company, et al. (FPL, the applicant) is the holder of Facility Operating License Nos. DPR-67 and No. NPF-16, which authorize operation of St. Lucie, Units 1 and 2, respectively. The licenses provide, among other things, that the facility is subject to all rules, regulations, and orders of the U.S. Nuclear Regulatory Commission (NRC, the Commission) now or hereafter in effect.

The facility consists of two pressurized water reactors located in St. Lucie County, Florida.

2.0 REQUEST/ACTION

Title 10 of the *Code of Federal Regulations* (10 CFR), Part 54 addresses the various requirements for renewal of operating licenses for nuclear power plants. Section 54.21(b) of 10 CFR specifies:

Each year following submittal of the license renewal application and at least 3 months before scheduled completion of the NRC review, an amendment to the renewal application must be submitted that identifies any change to the CLB [current licensing basis] of the facility that materially affects the contents of the license renewal application, including the FSAR [final safety analysis report] supplement.

In accordance with 10 CFR 54.15, which references 10 CFR 50.12, the NRC staff, upon its own initiative, developed an exemption to 10 CFR 54.21(b) for St. Lucie, Units 1 and 2. At the time that 10 CFR Part 54 was issued, the staff expected that its review of a license renewal application (LRA) could take three or more years. The NRC staff completed its reviews of recent LRAs in less than 20 months. The exemption would allow FPL to submit one LRA amendment during the staff's review of the application, instead of two amendments.

The NRC staff anticipates completing its review of the St. Lucie, Units 1 and 2, LRA and issuing a safety evaluation report (SER) by July 3, 2003. This exemption would permit FPL to forgo submitting an annual LRA amendment provided it submits a single LRA amendment for St. Lucie, Units 1 and 2, at least three months before this scheduled completion date.

### 3.0 DISCUSSION

Pursuant to 10 CFR 54.15, the Commission may, upon application by any interested person or upon its own initiative, grant exemptions from the requirements of 10 CFR Part 54, in accordance with the provisions of 10 CFR 50.12, when (1) the exemptions are authorized by law, will not present an undue risk to public health or safety, and are consistent with the common defense and security; and (2) when special circumstances are present.

The requirements for exemption are discussed below:

The Commission's basis for requiring applicants to submit amendments to LRAs is contained in Section 54.21(b) and is discussed in the 1991 Statements of Consideration for Part 54 (56 FR 64954). The Commission established the requirement to ensure that the effects of changes to the renewal applicant's CLB is evaluated during the review of its renewal application. The exemption is consistent with the Commission's intent for the NRC staff, during its review of the application, to evaluate changes to the CLB of the facility that materially affects the contents of the LRA, including the FSAR supplement.

The exemption seeks only schedular relief regarding the timing and number of amendment submittals, and not substantive relief from the requirements of Parts 50, 51, or 54. FPL must still submit an LRA amendment for St. Lucie, Units 1 and 2, as required by 10 CFR Part 54. Therefore, the NRC staff finds that granting this schedular exemption will not represent an undue risk to public health and safety and is consistent with the common defense and security.

### 3.1 Special Circumstances Supporting Issuance of the Exemption

An exemption will not be granted unless special circumstances are present as defined in 10 CFR 50.12(a)(2). Specifically, Section 50.12(a)(2)(ii) states that a special circumstance exists when "Application of the regulation in the particular circumstances . . . is not necessary to achieve the underlying purpose of the rule. . ." In initially promulgating Section 54.21(b) in 1991, the Commission stated that the purpose of submitting LRA amendments is "To ensure that the effect of changes to a license renewal applicant's existing licensing basis is evaluated during the review of a renewal application, renewal applicants will be required to update the renewal application (including the integrated plant assessment) annually;" (56 FR 64954). The Commission indicated that the changes to the CLB that could affect the results of the license renewal processes, such as, scoping, screening, and aging management reviews should be evaluated during the NRC review of the LRA. As set forth below, the applicant's submittal of a single LRA amendment would allow the NRC staff to review and document the licensing changes in its safety evaluation report (SER) for St. Lucie, Units 1 and 2. Accordingly, under the exemption, the NRC staff will have the opportunity to review the recent changes to the CLB that could affect the results of license renewal processes.

The applicant submitted its LRA for St. Lucie, Units 1 and 2, to the NRC on November 29, 2001. The NRC staff is scheduled to complete its review and the SER by July 3, 2003. In accordance with the requirements of 10 CFR 54.21(b), an applicant must submit a yearly LRA amendment by November 29, 2002, and a second amendment before

April 3, 2003, which is three months before the NRC staff is scheduled to complete its review and issue an SER. Consequently, the licensee is required to submit two amendments within four months.

The SER with open items, which is scheduled to be issued by February 7, 2003, will identify proposed licensee commitments that change the CLB and are acceptable to the NRC. The applicant will be able to include these changes in an amendment that is submitted after the SER with open items is issued. The NRC staff can then review these changes and revise the SER, accordingly. Hence, submittal of a single amendment after the SER with open items is issued would be beneficial to the NRC staff and the licensee.

Therefore, submittal of two LRA amendments to satisfy the intent of Section 54.21(b) and the application of the regulation, in this case, is not necessary to achieve the underlying purpose of the rule. The NRC staff finds that the exemption meets the requirement in Section 50.12(a)(2)(ii) that special circumstances exist to grant the exemption.

#### 4.0 CONCLUSION

Accordingly, the Commission has determined that, pursuant to 10 CFR 54.15 and 10 CFR 50.12, the exemption is authorized by law, will not present an undue risk to the public health and safety, and is consistent with the common defense and security. The exemption allows the applicant to forgo submitting the annual LRA amendment provided it submits an LRA amendment at least three months before the scheduled completion of the NRC's review. Therefore, the Commission hereby grants FPL the proposed exemption from the requirements of 10 CFR 54.21(b) for St. Lucie, Units 1 and 2, based on the circumstances described herein.



Pursuant to 10 CFR 51.32, the Commission has determined that the granting of this exemption will not have a significant effect on the quality of the human environment (67 FR 69254).

This exemption is effective upon issuance.

Dated at Rockville, Maryland, this 19<sup>th</sup> day of November, 2002.

FOR THE NUCLEAR REGULATORY COMMISSION

*/RA/*

David B. Matthews, Director  
Division of Regulatory Improvement Programs  
Office of Nuclear Reactor Regulation

SAFETY EVALUATION BY THE OFFICE OF NUCLEAR REACTOR REGULATION  
EXEMPTION FROM 10 CFR 54.21(b)  
REGARDING SUBMITTAL OF AMENDMENTS TO THE  
FLORIDA POWER & LIGHT COMPANY, ET AL.  
ST. LUCIE, UNITS 1 AND 2  
DOCKET NOS. 50-335 AND 50-389

## 1.0 INTRODUCTION

Requirements for filing applications for renewed operating licenses are contained in the license renewal rule, Title 10 of the *Code of Federal Regulations* (10 CFR), Part 54, Section 54.21(b), which states: "Each year following submittal of the license renewal application and at least 3 months before scheduled completion of the NRC review, an amendment to the renewal application must be submitted that identifies any change to the CLB [current licensing basis] of the facility that materially affects the contents of the license renewal application, including the FSAR [final safety analysis report] supplement."

The NRC staff, on its own initiative, proposed an exemption that would allow Florida Power and Light Company (FPL) to submit a single amendment at least three months before the NRC staff issues its safety evaluation report (SER) for the St. Lucie, Units 1 and 2, license renewal application (LRA). Such an exemption would allow FPL to identify recent CLB changes, which affect the results of license renewal processes, such as, scoping, screening, and aging management reviews, and submit the information in a single LRA amendment. The exemption provides efficiencies for both FPL and the NRC by reducing the number of amendments that are required to be submitted and reviewed.

## 2.0 EVALUATION

Section 54.15 of 10 CFR states that exemptions from the requirements of Part 54 may be granted by the Commission in accordance with Section 50.12. An exemption may be granted under Section 50.12 if the exemption is authorized by law, will not present an undue risk to the public health and safety, and is consistent with the common defense and security. However, an exemption will not be granted unless special circumstances are present as defined in Section 50.12(a)(2).

The Commission's basis for establishing the requirement for submitting LRA amendments contained in Section 54.21(b) is discussed in the 1991 Statements of Consideration for Part 54 (56 FR 64954). The Commission established the requirement to ensure that the effect of changes to the renewal applicant's CLB is evaluated during the review of a renewal application.

FPL submitted its LRA for St. Lucie, Units 1 and 2, to the NRC on November 29, 2001. The NRC staff is scheduled to complete its review and issue the associated SER by July 3, 2003. In accordance with the requirements of 10 CFR 54.21(b), the applicant must submit a yearly LRA amendment by November 29, 2002, and a second amendment before April 3, 2003, which is three months before the NRC staff is scheduled to complete its review and issue the associated SER. Consequently, the licensee is required to submit two amendments within four months.

The Commission indicated in the 1991 Statements of Consideration for Part 54 (56 FR 64962), that the technical review would take approximately two years and that any necessary hearings

could take an additional year or more. Hence, the review and approval of a LRA could take three years or more. In the context of a three-year review, the requirement to submit a yearly update allows the NRC staff sufficient time to review changes to the CLB. However, FPL has not yet made any change to the CLB that materially affects the contents of the LRA, including the FSAR supplement, that requires NRC staff evaluation. There are no hearings associated with the review of the St. Lucie, Units 1 and 2, LRA. FPL plans to make changes to the CLB after the NRC staff issues the SER with open items, which is scheduled to be completed by February 7, 2003.

Therefore, should the Commission determine to grant the exemption, the NRC staff would be able to evaluate the effects of changes to the CLB during its review of the LRA.

The exemption seeks only schedular relief regarding the number and dates of submittals, and not substantive relief from the requirements of Parts 50, 51, or 54. FPL must still submit an LRA amendment identifying any changes to the CLB of the facility that materially affects the content of the LRA, and the FSAR supplement. The NRC staff will verify that all applicable Commission regulations have been met before issuing the renewed licenses. Therefore, the NRC staff finds that granting this scheduler exemption will not represent an undue risk to public health and safety and granting the exemption is consistent with the common defense and security.

## 2.1 Special Circumstances Supporting Issuance of the Exemption

An exemption will not be granted unless special circumstances are present as defined in Section 50.12(a)(2). Specifically, Section 50.12(a)(2)(ii) states that a special circumstance exists when "Application of the regulation in the particular circumstances ... is not necessary to achieve the underlying purpose of the rule." In initially promulgating Section 54.21(b) in 1991, the Commission stated that the purpose of submitting LRA amendments is "To ensure that the effect of changes to a renewal applicant's CLB is evaluated during the review of a renewal application, renewal applicants will be required to update the renewal application (including the integrated plant assessment) annually." (56 FR 64954.)

At that time, the Commission indicated that the technical review would take approximately two years and any necessary hearings could take an additional year or more (56 FR 64962).

FPL submitted its LRA for St. Lucie, Units 1 and 2, to the NRC on November 29, 2001. The NRC staff is scheduled to complete its review and issue the associated SER by July 3, 2003. In accordance with the requirements of 10 CFR 54.21(b), the applicant must submit a yearly LRA amendment by November 29, 2002, and a second amendment before April 3, 2003, which is three months before the NRC staff is scheduled to complete its review and issue the SER. Consequently, the licensee is required to submit two amendments within four months.

The NRC staff is scheduled to issue an SER with open items for the St. Lucie, Units 1 and 2, LRA by February 7, 2003. In the SER with open items, the NRC staff will identify proposed changes to the CLB that are acceptable to the NRC staff. FPL plans to document and submit these proposed changes in an LRA amendment at least three months before the completion of the NRC staff review. The NRC staff can then review and confirm the adequacy of the information in the LRA amendment and include its review in the SER, which is scheduled to be completed by July 3, 2003.

Since it submitted the LRA, FPL has not made any change to the CLB that materially affects the contents of the SER, including the FSAR supplement. FPL plans to make changes to the CLB after the NRC staff issues the SER with open items. FPL plans to document these changes in an LRA amendment at least three months before the scheduled completion of the NRC staff review.

The requirement in 10 CFR 54.21(b) for submittal of yearly LRA amendments is based on an NRC staff review lasting over three years. The NRC staff is scheduled to complete its review of the St. Lucie, Units 1 and 2, LRA and issue the associated SER by July 3, 2003. The submittal of a single amendment three months prior to completing its review would allow the NRC staff to evaluate changes to the CLB and revise its SER. The exemption will reduce the burden on the applicant and will allow for a more efficient NRC staff review resulting from a single amendment being submitted after the SER with open items is issued.

Therefore, submittal of a single amendment would satisfy the intent of Section 54.21(b), and the application of the regulation in this case is not necessary to achieve the underlying purpose of the rule. The NRC staff finds that the exemption meets the requirement in Section 50.12(a)(2) that special circumstances exist to grant the exemption.

### 3.0 CONCLUSION

Based on the foregoing, the NRC staff finds that the exemption is acceptable in that it is authorized by law, will not present an undue risk to the public health and safety, is consistent with the common defense and security, and special circumstances are present under 10 CFR 50.12(a)(2)(ii). The exemption allows the applicant to forgo submitting the annual LRA amendment provided it submits an LRA amendment at least three months before the scheduled completion of the NRC's review. The application must identify any changes to the CLB of the facility that materially affects the contents of the LRA, including the FSAR supplement. In the course of its review of the LRA amendment for St. Lucie, Units 1 and 2, the NRC staff will evaluate the effects of changes to the renewal applicant's CLB.

Principal Contributor: Noel F. Dudley, NRR

Date: November 19, 2002