



PO Box 1551
411 Fayetteville Street Mall
Raleigh NC 27602

C. S. Hinnant
Sr. Vice President and Chief Nuclear Officer
Progress Energy, Inc.

10 CFR 50.4(b)(4)
10 CFR 2.202

Serial: PE&RAS-03-068
June 3, 2003

United States Nuclear Regulatory Commission
ATTENTION: Document Control Desk
Washington, DC 20555

BRUNSWICK STEAM ELECTRIC PLANT, UNIT NOS. 1 AND 2
DOCKET NOS. 50-325 AND 50-324 / LICENSE NOS. DPR-71 AND DPR-62

SHEARON HARRIS NUCLEAR POWER PLANT, UNIT NO. 1
DOCKET NO. 50-400 / LICENSE NO. NPF-63

H. B. ROBINSON STEAM ELECTRIC PLANT, UNIT NO. 2
DOCKET NO. 50-261 / LICENSE NO. DPR-23

CRYSTAL RIVER UNIT 3 NUCLEAR GENERATING PLANT
DOCKET NO. 50-302 / LICENSE NO. DPR-72

**ANSWER, RESPONSE AND REQUEST FOR CLARIFICATION IN RESPONSE TO
APRIL 29, 2003, ORDER REQUIRING COMPLIANCE WITH REVISED DESIGN BASIS
THREAT FOR OPERATING POWER REACTORS (EA-03-086)**

Ladies and Gentlemen:

Section IV of the April 29, 2003, Order Requiring Compliance with Revised Design Basis Threat for Operating Power Reactors (EA-03-086) ("Order") states that, in accordance with 10 CFR §2.202, a licensee must submit an answer to the Order and may request a hearing on the Order within 35 days of the date of the Order.

This letter constitutes the answer (pursuant to 10 CFR 2.202 and Section IV) and response (pursuant to 10 CFR 50.4 and Sections III B.1 and B.2) of Progress Energy Carolinas, Inc. (PEC) (also known as Carolina Power & Light Company) and Progress Energy Florida, Inc. (PEF) (also known as Florida Power Corporation) to the Order.

Section II of the Order states that "[i]n order to provide assurance that licensees are implementing prudent measures to protect against the revised DBT, all licenses identified in Attachment 1 to this Order shall be modified to require that the physical security plans, safeguards contingency plans, and the guard training and qualification plans required by 10 C.F.R. §§ 50.34(c), 50.34(d), and 73.55(b)(4)(ii) be revised to provide protection against this revised DBT."

PEC and PEF consent to the Order, and do not request a hearing. PEC and PEF note the request for clarification of five Design Basis Threat (DBT) issues provided in the safeguards attachment to the letter from Mr. Colvin, President and CEO of the Nuclear Energy Institute, to Chairman Diaz dated May 16, 2003. We encourage the Commission to respond to this request as soon as possible, as the Commission's clarifications may affect the manner of compliance with the Order for PEC and PEF.

Because the NRC has used force-on-force testing as a standard by which compliance with the DBT was evaluated, PEC and PEF also request that the NRC provide a clear definition of the objectives and criteria for force-on-force exercises so that appropriate revisions can be made to the safeguards

IE53

contingency plans, security plans and security officer training and qualification plans for PEC and PEF.

Specifically, PEC and PEF need a clear explanation of the purpose of the force-on-force exercise (e.g., is the purpose of force-on-force exercises for security officer training, or to evaluate licensee compliance with the Design Basis Threat?). Similarly, the success criteria for the force-on-force exercise need to be established (e.g., is the criterion prevention of a large offsite release, which would be consistent with the basis for risk-informing NRC regulations, or some other criteria?). Finally, if a force-on-force exercise is going to be used as a performance test of the licensee's ability to protect against the Design Basis Threat, a clear definition of adversary rules of engagement and adversary tactics is needed to provide appropriate predictability and stability in the regulatory program. Absent these clarifications, the standard by which licensee performance will be measured will continue to be a constantly moving target which is counter to the Commission's Principles of Good Regulation.

To enable PEC and PEF to meet the compliance dates specified in the Order, the requested clarifications are needed as soon as possible. If the clarifications cannot be provided by October 1, 2003, we respectfully request that the Director, Nuclear Reactor Regulation extend the dates for submitting the revision to the security plan and safeguards contingency plan, training and qualification plan and full implementation of the Order on a day-for-day basis until such clarifications are provided.


PEC and PEF also confirm an understanding that the Commission intends to exercise enforcement discretion to accommodate issues which may arise as licensees, in good faith, take reasonable actions to implement the specific requirements of this Order. We further understand that the Commission will exercise enforcement discretion for the period necessary to resolve such issues and to integrate the requirements of this Order with the orders issued February 25, 2002, as well as with other pertinent regulatory requirements, and our safeguards contingency plans, security plans and security officer training and qualification plans.

Sincerely,



C. S. Hinnant
Senior Vice President and
Chief Nuclear Officer

C. S. Hinnant, having been first duly sworn, did depose and say that the information contained herein is true and correct to the best of his information, knowledge and belief; and the sources of his information are officers, employees, and agents of Progress Energy Carolinas, Inc. and Progress Energy Florida, Inc.



Kathleen O'Connell Curtis
Notary (Seal)

- c: **USNRC Document Control Desk (original and three copies)**
L. A. Reyes, Regional Administrator – Region II (two copies)
USNRC Resident Inspector – BSEP, Unit Nos. 1 and 2
B. L. Mozafari, NRR Project Manager – BSEP, Unit Nos. 1 and 2; CR3
J. S. Stewart, USNRC Senior Resident Inspector – CR3
J. B. Brady, USNRC Senior Resident Inspector – SHNPP, Unit No. 1
C. P. Patel, NRR Project Manager – SHNPP, Unit No. 1; HBRSEP, Unit No. 2
USNRC Senior Resident Inspector – HBRSEP, Unit No. 2

USNRC Secretary, Office of the Secretary of the Commission, Rulemakings and Adjudications Staff
USNRC Director, Office of Nuclear Reactor Regulation
USNRC Assistant General Counsel for Materials Litigation and Enforcement

J. A. Sanford - North Carolina Utilities Commission
E. L. Jacobs, Jr., Florida Public Service Commission