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FEB - 8 1999

L-99-031

Mr. Samuel J. Collins, Director
Office of Nuclear Reactor Regulation
U. S. Nuclear Regulatory Commission
One White Flint North
11555 Rockville Pike
Rockville, MD 33408-0420

Subject: Turkey Point Units 3 and 4
Docket Nos. 50-250 and 50-251
Consent to Confirmatory Order
Modifying License on Thermo-Lag Commitments

In response to J. A. Zwolinski's letter dated January 29, 1999, Florida Power and Light Company (FPL) will comply with the following commitment with respect to Turkey Point Units 3 and 4 (reproduced in the attachment):

Florida Power and Light Company (FPL) shall complete final implementation of Thermo-Lag 330-1 fire barrier corrective actions at Turkey Point Plant, Units 3 and 4, described in the FPL submittal to the U.S. Nuclear Regulatory Commission (NRC) dated December 9, 1998, by December 31, 2001. As discussed in FPL letter L-99-031, the following are issues pending resolution:

1. Thermo-Lag ampacity derating methodology issues are still under NRC review.
2. The use of Safety Injection pumps as alternative shutdown equipment in lieu of the charging pumps is still under NRC review.
3. FPL review of the NRC Safety Evaluation issued in support of the December 22, 1998, "Exemption from Certain Requirements of 10 CFR, Part 50, Appendix R, for Turkey Point Units 3 and 4, Regarding Fire Barriers in the Turbine Building (TAC NOS. M99324 and M99325)," has not be completed.
4. FPL's request for exemption from certain technical requirements of 10 CFR 50, Appendix R, for the Control Building Roof, submitted by FPL letter L-98-259, dated November 2, 1998, is still under NRC review.

Any further issues identified as a result of these pending NRC and FPL reviews and the schedules for implementation of any related corrective actions will be determined separately and are therefore not part of this order.

Further, the resolution of any new Thermo-Lag corrective actions resulting from a potential Fire Protection Functional Inspection or the on-going Fire Protection Functional Inspection Self-Assessment at Turkey Point Units 3 and 4, are not considered part of this confirmatory order.

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The above properly reflects FPL's commitments to implement Thermo-Lag 330-1 fire barrier corrective actions at Turkey Point Units 3 and 4. The exceptions to the commitment proposed in Mr. Zwolinski's January 29, 1999 letter reflect issues which are pending resolution and therefore, are not part of this order.

FPL agrees to the incorporation of the above commitment in a confirmatory order modifying the Turkey Point Unit 3 license (DPR-31) and the Turkey Point Unit 4 license (DPR-41) that will be effective immediately upon issuance. FPL also recognizes that by signing below, FPL consents to the issuance of an immediately effective confirmatory order for Turkey Point Units 3 and 4 and, by doing so, pursuant to 10 CFR 2.202(a)(3), FPL will not have a right to request a hearing on all or any part of the Turkey Point Units 3 and 4 Confirmatory Order. However, it is FPL's position that this waiver of a right to a hearing is limited to the issuance of the specific Turkey Point Units 3 and 4 Order and does not extend to any future right to a hearing or to any other legal process that FPL might have concerning any other order, issuance or determination by the NRC, including, for example, any NRC determination that good cause has not been shown for the relaxation or rescission of the Turkey Point Units 3 and 4 Order. Moreover, it is FPL's position that, in the event FPL requests a hearing on the NRC's denial of a showing of good cause, the effectiveness of the above commitment will be suspended until the completion of the hearing.

Additionally, consistent with the confirmatory order issued to Washington Public Power Supply System concerning Nuclear Project No. 2 dated March 25, 1998, as well as confirmatory orders issued to other licensees, FPL's acceptance is based on the premise that the Confirmatory Order for Turkey Point Units 3 and 4 will expressly provide that "The Director, Office of Nuclear Reactor Regulation, may relax or rescind, in writing, any provisions of this Confirmatory Order upon a showing by the Licensee of good cause." By way of example, and not by way of limitation, FPL considers a showing of good cause to include delays or disruptions which directly affect FPL's ability to satisfy the Turkey Point Units 3 and 4 Order and which result from unforeseeable conditions beyond the control of FPL, including, but not limited to, acts of God, labor difficulty, unavailability of materials, embargoes, or acts of governmental authorities, including changes in laws, regulations, licenses, or orders. Further, FPL believes that a showing of good cause would include such matters as the need to revise the completion date of the above commitment in order to perform other work because FPL determines that the safety significance of such work takes precedence over the above-described Thermo-Lag 330-1 modifications due to budget, resource, or space constraints.

Should there be any questions about this consent letter, please contact us.

Very truly yours,



T. F. Plunkett
President
Nuclear Division

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Attachment

cc: Document Control Desk, Washington, D.C.
Regional Administrator, Region II, USNRC
Senior Resident Inspector, USNRC, Turkey Point

I, Thomas F. Plunkett, President, Nuclear Division, Florida Power and Light Company, hereby agree on behalf of Florida Power and Light Company that Florida Power and Light Company will comply with the following commitment:


Florida Power and Light Company (FPL) shall complete final implementation of Thermo-Lag 330-1 fire barrier corrective actions at Turkey Point Plant, Units 3 and 4, described in the FPL submittal to the U.S. Nuclear Regulatory Commission (NRC) dated December 9, 1998, by December 31, 2001. As discussed in FPL letter L-99-031, the following are issues pending resolution:

1. Thermo-Lag ampacity derating methodology issues are still under NRC review.
2. The use of Safety Injection pumps as alternative shutdown equipment in lieu of the charging pumps is still under NRC review.
3. FPL review of the NRC Safety Evaluation issued in support of the December 22, 1998, "Exemption from Certain Requirements of 10 CFR Part 50, Appendix R, for Turkey Point Units 3 and 4, Regarding Fire Barriers in the Turbine Building (TAC NOS. M99324 and M99325)," has not been completed.
4. FPL's request for exemption from certain technical requirements of 10 CFR 50, Appendix R, for the Control Building Roof, submitted by FPL letter L-98-259, dated November 2, 1998, is still under NRC review.

Any further issues identified as a result of these pending NRC and FPL reviews and the schedules for implementation of any related corrective actions will be determined separately and are therefore not part of this order.

Further, the resolution of any new Thermo-Lag corrective actions resulting from a potential Fire Protection Functional Inspection or the on-going Fire Protection Functional Inspection Self-Assessment at Turkey Point Units 3 and 4, are not considered part of this confirmatory order.

FPL also agrees to incorporate this commitment into a Confirmatory Order Modifying License (Order) that will be effective immediately upon issuance. I recognize that by signing below, FPL consents to the issuance of an immediately effective Order incorporating the above commitment and, by doing so, pursuant to 10 CFR 2.202(a)(3), FPL will not have the right to request a hearing on all or any part of this Order.



Thomas F. Plunkett, President Nuclear Division
Florida Power and Light Company


Date