

September 2, 2004

Mr. Thomas Saporito
National Environmental Protection Center
Post Office Box 1173
Jupiter, Florida 33458

Dear Mr. Saporito:

Your petition addressed to the U.S. Nuclear Regulatory Commission (NRC) Executive Director for Operations, dated July 1, 2004, as supplemented on July 4, 2004, has been referred to the Office of Nuclear Reactor Regulation pursuant to Title 10, *Code of Federal Regulations* (10 CFR), Section 2.206. You requested that the NRC take immediate action to cause the cold shutdown of the Turkey Point Nuclear Power Plant, Units 3 and 4, and the Saint Lucie Plant Units 1 and 2, operated by the Florida Power and Light Company (FPL, the licensee). Additionally, you requested immediate enforcement action against the licensee for the alleged failure to adhere to the requirements of 10 *CFR* 50.7, Employee Protection. The enforcement action proposed also includes a request for the issuance of a Notice of Violation and a civil penalty of \$100,000 per day retroactive to June 3, 1994. The basis for your request relates to three previous employee protection cases against FPL and your assertion that the “. . . licensee cannot demonstrate any amount of reasonable assurance . . . that the overall work environment at the Turkey Point and St. Lucie nuclear stations is totally free of an atmosphere which would otherwise dissuade licensee employees from raising nuclear safety concerns to the NRC or to the licensee.”

The Petition Review Board (PRB) considered the information provided in your petitions as well as the information you provided during a teleconference with the PRB on August 2, 2004. During the teleconference, you indicated a revision to your request to impose a civil penalty against FPL. The revision would increase your proposed civil penalty from \$100,000 to \$120,000 per day retroactive to June 3, 1994. Based on the information provided by you and the records of the NRC staff's activities in this area, the PRB considered your petition as well as your supplemental letter. The PRB determined that there was no need for action to immediately shut down Turkey Point Units 3 and 4 or Saint Lucie Units 1 and 2. A review of NRC activities revealed that you have previously raised these same issues to the NRC staff under the 10 CFR 2.206 Petition process in a letter dated April 23, 1997, as supplemented on May 11 and May 17, 1997. The Director's Decision (DD) 97-20 denying your petition was issued in a letter to you dated September 8, 1997.

The issues you raised in this petition request were previously reviewed by the NRC Office of Investigations (OI) and documented in Report of Investigation (ROI) 2-1988-012. After investigating your claims of retaliation, OI was unable to substantiate that individuals were terminated as a result of protected activity. OI also reviewed the work environment and concluded that a “chilled” environment did not exist. Additionally, as a result of allegations made to the NRC, a team inspection was conducted at FPL's Turkey Point Nuclear Power Plant from October 28 to November 8, 1991, to determine if personnel practices resulted in a chilling effect with regard to pursuing a safety issue.

In the associated NRC Inspection Report 50-250(251)/91-45, the NRC staff indicated that “[t]here was no evidence found to substantiate the allegations of an overall atmosphere of intimidation, threats, coercion, harassment, or negative evaluations to limit the pursuit of safety issues.”

In accordance with NRC Management Directive 8.11, “Review Process for 10 CFR 2.206 Petitions,” the staff will not review a petition if the petition raises issues that have already been the subject of NRC staff review and evaluation either on that facility, other similar facilities, or on a generic basis, for which a resolution has been achieved, the issues have been resolved, and the resolution is applicable to the facility in question. This would include requests to reconsider or reopen a previous enforcement action, unless significant new information was presented. As these issues have been previously reviewed and no significant new information was provided, the PRB has concluded that your petition does not meet the criteria for consideration under 10 CFR 2.206. This concludes the NRC staff’s effort on this petition request.

Thank you for bringing these issues to the attention of the NRC.

Sincerely,

/RA James E. Lyons for/

Ledyard B. Marsh, Director
Division of Licensing Project Management
Office of Nuclear Reactor Regulation

Docket Nos. 50-250, 50-251,
50-335, and 50-389

Enclosure: NEPC 2.206 Request

In the associated NRC Inspection Report 50-250(251)/91-45, the NRC staff indicated that that “[t]here was no evidence found to substantiate the allegations of an overall atmosphere of intimidation, threats, coercion, harassment, or negative evaluations to limit the pursuit of safety issues.”

In accordance with NRC Management Directive 8.11, “Review Process for 10 CFR 2.206 Petitions,” the staff will not review a petition if the petition raises issues that have already been the subject of NRC staff review and evaluation either on that facility, other similar facilities, or on a generic basis, for which a resolution has been achieved, the issues have been resolved, and the resolution is applicable to the facility in question. This would include requests to reconsider or reopen a previous enforcement action, unless significant new information was presented. As these issues have been previously reviewed and no significant new information was provided, the PRB has concluded that your petition does not meet the criteria for consideration under 10 CFR 2.206. This concludes the NRC staff’s effort on this petition request.

Thank you for bringing these issues to the attention of the NRC.

Sincerely,

/RA James E. Lyons for/

Ledyard B. Marsh, Director
Division of Licensing Project Management
Office of Nuclear Reactor Regulation

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