



UNITED STATES  
NUCLEAR REGULATORY COMMISSION

REGION II  
SAM NUNN ATLANTA FEDERAL CENTER  
61 FORSYTH STREET, SW, SUITE 23T85  
ATLANTA, GEORGIA 30303-8931

June 13, 2008

EA-07-321

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

SUBJECT: CONFIRMATORY ORDER (EFFECTIVE IMMEDIATELY)  
[NRC OFFICE OF INVESTIGATION REPORT NO. 2-2006-034]

Dear Mr. Stall:

The enclosed Confirmatory Order is being issued to Florida Power and Light Company's (FPL) St. Lucie Nuclear Plant, as a result of a successful alternative dispute resolution (ADR) session. The enclosed commitments were made by FPL as part of a settlement agreement concerning issues involving the conduct of two contract workers, and the subsequent investigation and corrective actions taken in response to this matter by FPL's St. Lucie management. In this case, the two contract workers documented in a work order that they had used the torque wrench required by the work order when, in fact, they had used a different torque wrench, in an apparent effort to conceal their over-torquing of a valve. In response, FPL management took actions to have the workers removed from the site, but failed to have the workers' trustworthiness and reliability assessed by site security.

In a letter dated April 2, 2008, the Nuclear Regulatory Commission (NRC) provided FPL with the results of an investigation completed by the NRC's Office of Investigations (OI). The purpose of the investigation was to determine if FPL management willfully failed to identify two contract workers as untrustworthy subsequent to their actions to falsify a work order related to valve maintenance activities they performed. A Factual Summary of the OI investigation, which concluded that plant management failed to contact site security even though the workers admitted that they had deliberately falsified the work order, was enclosed with our letter.

In addition, our letter of April 2, 2008, offered FPL a choice to: (1) attend a Predecisional Enforcement Conference; (2) provide a written response; or (3) request ADR with the NRC in an attempt to resolve any disagreement regarding whether violations occurred, the appropriate enforcement action, and the appropriate corrective actions.

In response, FPL requested ADR to resolve any differences with the NRC concerning the apparent violations, and to discuss corrective actions. An ADR mediation session was held on May 16, 2008, at which a preliminary settlement agreement was reached. The elements of the preliminary agreement were formulated and agreed to at the mediation session and are contained within the enclosed Order.

As part of the ADR settlement agreement, and as discussed in the enclosed Confirmatory Order, FPL agreed to a number of corrective actions and enhancements to its Corrective Action Program, procedural revisions, training initiatives, and FPL fleet-wide initiatives. In consideration of the above commitments, the NRC agreed to exercise enforcement discretion to forego issuance of a Notice of Violation or other enforcement action for all matters discussed in NRC's letter to FPL of April 2, 2008 (EA-07-321). We will evaluate the implementation of your commitments during future inspections.

We have enclosed a Confirmatory Order (Effective Immediately) to confirm the commitments made as part of the settlement agreement. As evidenced by your signed "Consent and Hearing Waiver Form" (copy enclosed) dated June 10, 2008, you agreed to issuance of this letter and Confirmatory Order.

Pursuant to Section 223 of the Atomic Energy Act of 1954, as amended, any person who willfully violates, attempts to violate, or conspires to violate, any provision of this Order shall be subject to criminal prosecution as set forth in that section. Violation of this Order may also subject the person to civil monetary penalties.

You are not required to respond to this letter. However, if you choose to provide a response, please provide it to me within 30 days at NRC Region II, ATTN: Regional Administrator, 61 Forsyth Street, SW Suite 23T85, Atlanta, Georgia 30303-8931.

If you have any questions or comments concerning this letter, please contact Ms. Carolyn Evans of my staff at 404-562-4414.

A copy of this letter and its enclosures will be made available electronically for public inspection in the NRC Public Document Room or from the NRC's document system (ADAMS). ADAMS is accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html>. The NRC will also include this letter, and the attached Confirmatory Order, on its website at [www.nrc.gov](http://www.nrc.gov); select Public Meetings and Involvement, then Enforcement. Your response, if you choose to provide one, will also be made available electronically for public inspection in the NRC Public Document Room or from the NRC's document system (ADAMS).

Sincerely,

/RA/

Luis A. Reyes  
Regional Administrator

Docket No.: 50-335, 50-389  
License No.: DPR-67, NPF-16

Enclosures:

1. Confirmatory Order
2. Consent and Hearing Waiver Form

cc w/encls.:

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Electronic Mail Distribution

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Plant General Manager  
St. Lucie Nuclear Plant  
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ADAMS:  Yes      ACCESSION NUMBER: \_\_\_\_\_

OFFICE	RII:ORA	RII:DRS			RII:ORA	
SIGNATURE	/RA/	/RA/			/RA/	
NAME	CEVANS	KKENNEDY			VMCCREE	
DATE	5/27/08	5/29/08			6/10/08	
E-MAIL COPY?	YES NO	YES NO	YES NO	YES NO	YES NO	YES NO
OFFICE	OGC	NSIR	OE	NRR		
SIGNATURE	/RA/LONGO FOR VIA EMAIL	/RA/ VIA EMAIL		/RA/VIA EMAIL		
NAME	MARCO	CORREIA		BOGER		
DATE	6/12/08	6/5/08		6/04/08/		
E-MAIL COPY?	YES NO	YES NO	YES NO	YES NO	YESNO	YESNO

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

In the Matter of	)	
	)	Docket Nos.: 50-335, 50-389
Florida Power and Light Company	)	License Nos.: DPR-67, NPF-16
St. Lucie Nuclear Plant	)	
	)	EA-07-321

CONFIRMATORY ORDER  
(EFFECTIVE IMMEDIATELY)

I

Florida Power and Light Company (FPL or Licensee) is the holder of Operating License Nos. DPR-67 and NPF-16, issued by the Nuclear Regulatory Commission (NRC or Commission) pursuant to 10 CFR Part 50 on March 1, 1976, and April 6, 1983, respectively. The license authorizes the operation of St Lucie Nuclear Plant, Units 1 and 2, (St. Lucie or facility) in accordance with conditions specified therein. The facility is located on the Licensee's site in Jensen Beach, Florida.

This Confirmatory Order is the result of an agreement reached during an alternative dispute resolution (ADR) mediation session conducted on May 16, 2008.

II

On September 1, 2006, the NRC Office of Investigations (OI) began an investigation (OI Case No. 2-2006-034) at St. Lucie Nuclear Plant. Based on the evidence developed during the investigation, the NRC staff concluded that a supervisor at St. Lucie willfully failed to take action to identify two contract workers as untrustworthy, subsequent to their actions to falsify a work

order related to valve maintenance activities they performed. The results of the investigation were sent to FPL in a letter dated April 2, 2008.

The NRC's letter of April 2, 2008, documented the forgoing incident which occurred on or about March 10, 2005. Two contractors documented a work order to indicate that they had used the torque wrench required by the work order when, in fact, they had used a different torque wrench, in an apparent effort to conceal their over-torquing of a valve. The April 2<sup>nd</sup> letter also documented the subsequent investigation of this incident by FPL and the corrective actions taken by FPL's St. Lucie management. Although FPL's immediate actions to ensure all maintenance and operational issues associated with the valve in question were prompt and comprehensive, the NRC's letter of April 2, 2008, documented two apparent violations associated with FPL's initial review and investigation into the matter.

### III

On May 16, 2008, the NRC and FPL met in an ADR session mediated by a professional mediator, arranged through Cornell University's Institute on Conflict Resolution. ADR is a process in which a neutral mediator with no decision-making authority assists the parties in reaching an agreement or resolving any differences regarding their dispute. This confirmatory order is issued pursuant to the agreement reached during the ADR process. The elements of the agreement consist of the following:

1. The NRC and FPL agreed that a violation occurred involving FPL's failure to adhere to FPL Nuclear Division Policy, NP-415, Revision 3, and ADM-15.02. These procedures require, in part, that in all instances where the trustworthiness and reliability of a person

who is currently granted unescorted access (UA) is called into question by credible objective evidence, the responsible supervisor or manager of that individual shall promptly contact the appropriate site security manager at the nuclear plant site. In this case, the falsification of the work order called into question the trustworthiness and reliability of the two contract workers. However, FPL did not ensure that the site security manager was contacted or otherwise initiate action such that the trustworthiness and reliability of the two contract workers could be assessed at that time. The actions of the two contract workers should have been considered in evaluating the two contract workers' suitability for continued unescorted access and possible entry into the Personnel Access Data System (PADS). As a result, FPL did not meet the Access Authorization program objective in 10 CFR 73.56 (b)(1), which is to provide high assurance that individuals granted UA are trustworthy and reliable, and do not constitute an unreasonable risk to the health and safety of the public including a potential to commit radiological sabotage. Subsequently, the two contract workers' trustworthiness was evaluated and they were entered into PADS. Prior to being entered into PADS, however, the contract workers were granted access to a number of nuclear sites, including St. Lucie.

2. The NRC and FPL agreed that CR 2005-7449 did not fully document the circumstances of the matter to permit FPL to conduct a thorough review such that corrective actions and a trustworthiness and reliability assessment would be performed.
3. The NRC and FPL agreed that the violation described above did not result in any adverse consequences. However, the failure to conduct a trustworthiness and reliability assessment is of concern to the NRC because the potential consequences, under

different circumstances, could be significant.

4. FPL reiterated its commitment to the conduct of trustworthiness and reliability assessments as required. FPL agreed that the violation discussed above occurred as stated, and in response, agreed to implement or has completed the following corrective actions and enhancements:
  - a. FPL will issue a fleet-wide training brief to managers and supervisors reinforcing the requirements of NP-415, the corporate policy governing Denial of Unescorted Access to FPL's Nuclear Facilities, and the site implementing procedures on access control.
  - b. FPL will revise the site administrative procedures on access control as necessary to ensure that they require that contractor representatives and supervisors immediately notify FPL management of any incident or behavior that may call into question the trustworthiness or reliability of an individual.
  - c. Site-specific Control and Acceptance of Contracted Services procedures will be revised as necessary to ensure that the NP-415 requirements are reviewed by the Site Technical Representative (STRs) as part of the termination request process. FPL will also conduct a review of existing procedures related to contractor oversight and administration to ensure that the processes therein properly reflect the access control responsibilities of FPL.
  - d. All STRs will receive a training bulletin that reinforces management expectations regarding FPL ownership of access control as part of the procedure revision. The initial and continuing training lesson plan will be

revised to ensure that STRs, supervisors and managers understand management expectations regarding FPL ownership of access control.

- e. FPL will review fleet-wide the site administrative procedures for access control to ensure they require an express declaration of favorable or unfavorable termination, and to ensure that contractors are not allowed to manage their own access terminations without FPL management or STR approval.
- f. Plant management will reinforce management expectations via a fleet-wide training brief to all managers and supervisors, including the Management Review Committee (MRC) and the Initial Screening Team (IST), reinforcing the requirements of NP-415 and the site access control procedures. A Lessons-Learned Bulletin will be deployed for all Corrective Action Program Coordinators (CAPCOs) to ensure that identified CRs contain sufficient detail for the MRCs to make informed decisions regarding level, investigation type, and immediate action recommendations.
- g. A representative from the Security Department will be added as a primary member of the MRC at each site.
- h. Management will conduct a briefing to MRC members with a focus on the lessons learned from the NNI event and need for conservative action for any issues that question the trustworthiness or reliability of any individual. FPL will institutionalize an MRC Job Familiarization Guide requiring new MRC and IST members to receive an orientation from management on the importance of recognizing potential security concerns while reviewing CRs.
- i. To address situations where the CR evaluator is not the person primarily responsible for the event/issue, plant procedures will be revised to require the

system / process owner to review the evaluator's analysis and approve of the evaluation.

- j. Supervisor initial and continuing Fitness-For-Duty and Continued Behavioral Observation Program training will reinforce FPL's expectation of each Supervisor's obligations to notify the Security Department of any potential trustworthiness and reliability issues.
  - k. At St. Lucie, FPL validated that each fleet nuclear policy was appropriately implemented in a site implementing procedure. FPL will conduct an extent of condition review to validate the implementation of nuclear policies throughout the fleet.
  - l. FPL agrees to complete all corrective actions and enhancements identified in this paragraph 4 (items a. through k.) within six months of the date of issuance of the Confirmatory Order.
5. The NRC and FPL agree that the above elements will be incorporated into a Confirmatory Order.
6. In consideration of the commitments delineated in Item 4 above, the NRC agrees to exercise enforcement discretion to forego issuance of a Notice of Violation against FPL for all matters discussed in the NRC's letter to FPL of April 2, 2008 (EA-07-321).
7. This agreement is binding upon successors and assigns of the St. Lucie Nuclear Plant and FPL.

On June 10, 2008, the Licensee consented to issuance of this Order with the commitments, as described in Section V below. The Licensee further agreed that this Order is to be effective upon issuance and that it has waived its right to a hearing.

## IV

Since the licensee has agreed to take additional actions to address NRC concerns, as set forth in Section III above, the NRC has concluded that its concerns can be resolved through issuance of this Order.

I find that the Licensee's commitments as set forth in Section V are acceptable and necessary and conclude that with these commitments the public health and safety are reasonably assured. In view of the foregoing, I have determined that public health and safety require that the Licensee's commitments be confirmed by this Order. Based on the above and the Licensee's consent, this Order is immediately effective upon issuance.

## V

Accordingly, pursuant to Sections 104b, 161b, 161i, 161o, 182 and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.202 and 10 CFR Part 50, IT IS HEREBY ORDERED, EFFECTIVE IMMEDIATELY, THAT LICENSE NOS. DPR-67 AND NPF-16 ARE MODIFIED AS FOLLOWS:

- a. FPL will issue a fleet-wide training brief to managers and supervisors reinforcing the requirements of NP-415, the corporate policy governing Denial of Unescorted

- Access to FPL's Nuclear Facilities, and the site implementing procedures on access control.
- b. FPL will revise the site administrative procedures on access control as necessary to ensure that they require that contractor representatives and supervisors immediately notify FPL management of any incident or behavior that may call into question the trustworthiness or reliability of an individual.
  - c. Site-specific Control and Acceptance of Contracted Services procedures will be revised as necessary to ensure that the NP-415 requirements are reviewed by the Site Technical Representative (STRs) as part of the termination request process. FPL will also conduct a review of existing procedures related to contractor oversight and administration to ensure that the processes therein properly reflect the access control responsibilities of FPL.
  - d. All STRs will receive a training bulletin that reinforces management expectations regarding FPL ownership of access control as part of the procedure revision. The initial and continuing training lesson plan will be revised to ensure that STRs, supervisors and managers understand management expectations regarding FPL ownership of access control.
  - e. FPL will review fleet-wide the site administrative procedures for access control to ensure they require an express declaration of favorable or unfavorable termination, and to ensure that contractors are not allowed to manage their own access terminations without FPL management or STR approval.
  - f. Plant management will reinforce management expectations via a fleet-wide training brief to all managers and supervisors, including the Management Review Committee (MRC) and the Initial Screening Team (IST), reinforcing the requirements of NP-415

- and the site access control procedures. A Lessons-Learned Bulletin will be deployed for all Corrective Action Program Coordinators (CAPCOs) to ensure that identified CRs contain sufficient detail for the MRCs to make informed decisions regarding level, investigation type, and immediate action recommendations.
- g. A representative from the Security Department will be added as a primary member of the MRC at each site.
  - h. Management will conduct a briefing to MRC members with a focus on the lessons learned from the NNI event and need for conservative action for any issues that question the trustworthiness or reliability of any individual. FPL will institutionalize an MRC Job Familiarization Guide requiring new MRC and IST members to receive an orientation from management on the importance of recognizing potential security concerns while reviewing CRs.
  - i. To address situations where the CR evaluator is not the person primarily responsible for the event/issue, plant procedures will be revised to require the system / process owner to review the evaluator's analysis and approve of the evaluation.
  - j. Supervisor initial and continuing Fitness-For-Duty and Continued Behavioral Observation Program training will reinforce FPL's expectation of each Supervisor's obligations to notify the Security Department of any potential trustworthiness and reliability issues.
  - k. At St. Lucie, FPL validated that each fleet nuclear policy was appropriately implemented in a site implementing procedure. FPL will conduct an extent of condition review to validate the implementation of nuclear policies throughout the fleet.
  - l. FPL agrees to complete all corrective actions and enhancements identified in this

paragraph (Section V, items a. through k.) within six months of the date of issuance of the Confirmatory Order.

The Regional Administrator, NRC Region II, may relax or rescind, in writing, any of the above conditions upon a showing by FPL of good cause.

VI

Any person adversely affected by this Confirmatory Order, other than the Licensee, may request a hearing within 20 days of its issuance. Where good cause is shown, consideration will be given to extending the time to request a hearing. A request for extension of time must be directed to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, and include a statement of good cause for the extension.

If a person other than FPL requests a hearing, that person shall set forth with particularity the manner in which his interest is adversely affected by this Order and shall address the criteria set forth in 10 CFR 2.309 (d) and (f).

If a hearing is requested by a person whose interest is adversely affected, the Commission will issue an Order designating the time and place of any hearing. If a hearing is held, the issue to be considered at such hearing shall be whether this Confirmatory Order should be sustained.

Pursuant to 10 CFR 2.202(c)(2)(i), any person adversely affected by this Order may, within 20 days of the issuance of this order, in addition to requesting a hearing, move the presiding officer to set aside the immediate effectiveness of the Order on the ground that the Order, including the

need for immediate effectiveness, is not based on adequate evidence but on mere suspicion, unfounded allegations or error. The motion must state with particularity the reasons why the Order is not based on adequate evidence and must be accompanied by affidavits or other evidence relied on.

A request for a hearing or to set aside the immediate effectiveness of this Order must be filed in accordance with the NRC E-Filing rule, which became effective on October 15, 2007. The NRC E-filing Final Rule was issued on August 28, 2007 (72 Fed. Reg. 49,139) and was codified in pertinent part at 10 CFR Part 2, Subpart B. The E-Filing process requires participants to submit and serve documents over the internet or, in some cases, to mail copies on electronic optical storage media. Participants may not submit paper copies of their filings unless they seek a waiver in accordance with the procedures described below.

To comply with the procedural requirements associated with E-Filing, at least five (5) days prior to the filing deadline the requestor must contact the Office of the Secretary by e-mail at HEARINGDOCKET@NRC.GOV, or by calling (301) 415-1677, to request (1) a digital ID certificate, which allows the participant (or its counsel or representative) to digitally sign documents and access the E-Submittal server for any NRC proceeding in which it is participating; and/or (2) creation of an electronic docket for the proceeding (even in instances when the requestor (or its counsel or representative) already holds an NRC-issued digital ID certificate). Each requestor will need to download the Workplace Forms Viewer™ to access the Electronic Information Exchange (EIE), a component of the E-Filing system. The Workplace Forms Viewer™ is free and is available at <http://www.nrc.gov/site-help/e-submittals/install-viewer.html>. Information about applying for a digital ID certificate also is available on NRC's public website at <http://www.nrc.gov/site-help/e-submittals/apply-certificates.html>.

Once a requestor has obtained a digital ID certificate, had a docket created, and downloaded the EIE viewer, it can then submit a request for a hearing through EIE. Submissions should be in Portable Document Format (PDF) in accordance with NRC guidance available on the NRC public website at <http://www.nrc.gov/site-help/e-submittals.html>. A filing is considered complete at the time the filer submits its document through EIE. To be timely, electronic filings must be submitted to the EIE system no later than 11:59 p.m. Eastern Time on the due date. Upon receipt of a transmission, the E-Filing system time-stamps the document and sends the submitter an e-mail notice confirming receipt of the document. The EIE system also distributes an e-mail notice that provides access to the document to the NRC Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the document on those participants separately. Therefore, any others who wish to participate in the proceeding (or their counsel or representative) must apply for and receive a digital ID certificate before a hearing request is filed so that they may obtain access to the document via the E-Filing system.

A person filing electronically may seek assistance through the "Contact Us" link located on the NRC website at <http://www.nrc.gov/site-help/e-submittals.html> or by calling the NRC technical help line, which is available between 8:30 a.m. and 4:15 p.m., Eastern Time, Monday through Friday. The help line number is (800) 397-4209 or locally, (301) 415-4737.

Participants who believe that they have good cause for not submitting documents electronically must file a motion, in accordance with 10 C.F.R. 2.302(g), with their initial paper filing requesting authorization to continue to submit documents in paper format. Such filings must be submitted by (1) first class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Attention: Rulemaking and

Adjudications Staff; or (2) courier, express mail, or expedited delivery service to the Office of the Secretary, Sixteenth Floor, One White Flint North, 11555 Rockville Pike, Rockville, Maryland, 20852, Attention: Rulemaking and Adjudications Staff. Participants filing a document in this manner are responsible for serving the document on all other participants. Filing is considered complete by first-class mail as of the time of deposit in the mail, or by courier, express mail, or expedited delivery service upon depositing the document with the provider of the service.

Documents submitted in adjudicatory proceedings will appear in NRC's electronic hearing docket which is available to the public at [http://ehd.nrc.gov/EHD\\_Proceeding/home.asp](http://ehd.nrc.gov/EHD_Proceeding/home.asp), unless excluded pursuant to an order of the Commission, an Atomic Safety and Licensing Board, or a Presiding Officer. Participants are requested not to include personal privacy information, such as social security numbers, home addresses, or home phone numbers in their filings. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, Participants are requested not to include copyrighted materials in their works.

## VII

In the absence of any request for hearing, or written approval of an extension of time in which to request a hearing, the provisions specified in Section V above shall be final 20 days from the date of this Order without further order or proceedings. If an extension of time for requesting a hearing has been approved, the provisions specified in Section V shall be final when the

extension expires if a hearing request has not been received. A REQUEST FOR HEARING SHALL NOT STAY THE IMMEDIATE EFFECTIVENESS OF THIS ORDER.

FOR THE NUCLEAR REGULATORY COMMISSION

/RA/

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Luis A. Reyes  
Regional Administrator

Dated this 13<sup>th</sup> day of June 2008