

Official Transcript of Proceedings
NUCLEAR REGULATORY COMMISSION

Title: 2.206 Petition on Florida Power and Light
Company by Thomas Saporito

Docket Number: (n/a)

Location: (telephone conference)

Date: Thursday, March 19, 2009

Work Order No.: NRC-2744

Pages 1-41

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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

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PETITION REVIEW BOARD (PRB)

CONFERENCE CALL

+ + + + +

THURSDAY

MARCH 19, 2009

+ + + + +

2.206 PETITION ON FLORIDA POWER AND LIGHT COMPANY

BY THOMAS SAPORITO

+ + + + +

The conference call was held, Tim McGinty,
Petition Review Board Chairman, presiding.

NRC HEADQUARTERS STAFF:

TIM MCGINTY, Chairman, PRB

JASON PAIGE, Petition Manager

TANYA M. MENSAH, Petition Coordinator

SHERRY BONE, NRR/DPR

SHAHRAM GHASEMIAN, OGC/GCHEA/AGCMLE

PATRICK JEFFERSON, OI

AUDREY KLETT, NRR/ADRO/DIRS/IP

STACEY ROSENBERG, NRR/ADRO/DPR/PSP

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PETITIONER:

THOMAS SAPORITO

NRC REGION II STAFF:

MARVIN SYKES, DRP/PB3

APPEARANCES:

On Behalf of the Nuclear Regulatory Commission:

JENNY M. LONGO, ESQ.

Of:Office of General Counsel

Nuclear Regulatory Commission

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On Behalf of Florida Power and Light Company:

WILLIAM BLAIR, ESQ.

700 Universe Boulevard

Juno Beach, FL 33408

ALSO PRESENT:

JOHN DORSCHNER, MIAMI HERALD

DAVID HOFFMAN

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1 PAUL INFANGER

2 P-R-O-C-E-E-D-I-N-G-S

3 1:03 a.m.

4 MR. PAIGE: I believe we have everyone on
5 line. I'm going to begin the meeting. I'd like to
6 welcome you to the Petition Review Board Discussion
7 with the Petitioner, Mr.. Thomas Saporito. The
8 purpose of this meeting is for the Petitioner, Mr..
9 Thomas Saporito, to address the Petition Review Board
10 for the request for enforcement action and
11 confirmatory order under 10 CFR 2.206 against Florida
12 Power and Light Company. The agenda for this meeting
13 is I'll go through the welcoming introductions. Mr..
14 Tim McGinty, the Petition Review Board Chair, will go
15 through the Board introductions and then we'll allow
16 Mr.. Thomas Saporito to provide additional information
17 and with his presentation and then we'll have closing
18 remarks by Tim McGinty.

19 I'd like to first just thank everybody for
20 attending this meeting. My name is Jason Paige, as I
21 stated earlier, and I'm the Turkey Point Project
22 Manager. We're here today to allow the Petitioner,
23 Mr.. Thomas Saporito, to address the Petition Review
24 Board regarding the 2.206 Petition dated January 11th,
25 2009.

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1 I am the Petition Manager for this
2 Petition. The Petition Review Board Chairman is Tim
3 McGinty . He's the Director for the Division of
4 Policy and Rulemaking. As part of the Petition Review
5 Board's or PRB's review of this Petition, Mr.. Thomas
6 Saporito has requested this opportunity to address the
7 PRB.

8 This meeting is scheduled from 1:00 p.m.
9 to 2:00 p.m. The meeting is being recorded by the NRC
10 operations center and will be transcribed by a Court
11 Reporter. The transcript will become a supplement to
12 the Petition. The transcript will also be made
13 publicly available. Now, I'd like to open this
14 meeting with introductions. As we go around the room,
15 please be sure to state your name, your position and
16 the office that you work for within NRC for the record
17 and I'll start off with Tim McGinty to my left.

18 MR. MCGINTY: Tim McGinty. I'm the
19 Division Director for NRR's Division of Policy and
20 Rulemaking. I am the Petition Review Board Chairman.

21 MS. MENSAH: Tanya Mensah. I am the 2.206
22 Coordinator, Office of Nuclear Reactor Regulations.

23 MS. LONGO: Jenny Longo. I'm a Senior
24 Attorney in the Office of the General Counsel.

25 MR. GHASEMIAN: Shahram Ghasemian, Senior

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1 Enforcement Advisor, Office of Enforcement.

2 MS. BONE: Sherry Bone, Acting Deputy
3 Director at DPR.

4 MS. KLETT: My name is Audry Klett. I'm a
5 Reactor Operations Engineer. I work in the Office of
6 Nuclear Reactor Regulations, Performance Assessment
7 Branch.

8 MR. JEFFERSON: Patrick Jefferson,
9 Operations Officer, Office of Investigations.

10 MS. ROSENBERG: Stacey Rosenberg, Branch
11 Chief of the Special Projects Branch in the Division
12 of Policy and Rulemaking in NRR.

13 MR. PAIGE: We've completed introductions
14 at the NRC headquarters. At this time, are there any
15 NRC participants from the Regional Office on the
16 phone?

17 MR. SYKES: This is Marvin Sykes, Chief of
18 Reactor Projects Branch 3 in the Atlanta Office, with
19 responsibility for the Turkey Point, St. Lucie and
20 Crystal River Sites.

21 MR. PAIGE: Are there any other Regional
22 representatives? Okay, the licensee for Turkey Point
23 is Florida Power and Light. Are there any
24 representatives from Florida Power and Light on the
25 phone?

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1 MR. BLAIR: My name is Bill Blair, William
2 S. Bill Blair. I'm counsel for Florida Power and
3 Light.

4 MR. PAIGE: Okay, are there any other
5 representatives from Florida Power and Light? Mr..
6 Saporito, would you please introduce yourself for the
7 record?

8 MR. SAPORITO: Yes, sir. My name is
9 Thomas Saporito. I'm the President of Saporito Energy
10 Consultants and I am the Petitioner, along with my
11 company addressing the United States Nuclear
12 Regulatory Commission today with respect to the
13 operations of the Florida Power and Light Company's
14 Turkey Point Nuclear Plant located south of Miami,
15 Florida.

16 MR. PAIGE: All right, thank you. Are
17 there any other such as members of the public on the
18 phone?

19 MR. INSANGER: My name is Paul Insanger
20 and I'm a member of the public.

21 MR. DORSCHNER: John Sorschner, Miami
22 Herald.

23 MR. PAIGE: All right, thank you.

24 MR. HOFFMAN: And David Hoffman, a member
25 of the public.

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1 MR. PAIGE: All right, thank you. How
2 about any other members? Okay, continuing on, I'd
3 like to emphasize that we each need to speak clearly
4 and loudly to make sure that the Court Reporter can
5 accurately describe -- transcribe this meeting. If
6 you do have something that you would like to say,
7 please first, state your name for the record.

8 At this time, I'll turn it over to the PRB
9 Chairman, Tim McGinty.

10 MR. MCGINTY: Thanks, Jason. Good
11 afternoon, welcome to this meeting regarding the 2.206
12 Petition submitted by Mr.. Thomas Saporito. I'd first
13 like to share some background on our process. Section
14 2.206 of Title 10 of the Code of Federal Regulations
15 describes the petition process, the primary mechanism
16 for the public to request enforcement action by the
17 NRC in a public process. This process permits anyone
18 to petition NRC to take enforcement type action
19 related to NRC licensees or license activities.

20 Depending on the results of its
21 evaluation, NRC could modify, suspend or revoke an NRC
22 issued license or take any other appropriate
23 enforcement action to resolve a problem. The NRC's
24 staff's guidance from the disposition of 2.206
25 Petition request is in Management Directive 8.11 which

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1 is probably available.

2 The purpose of today's meeting is to give
3 the Petitioner an opportunity to provide any
4 additional explanation or support for the petition
5 before the Petition Review Board's initial
6 consideration and recommendation. This meeting is not
7 a hearing, nor is it an opportunity for the Petitioner
8 to question or examine the PRB on the merits or the
9 issues presented in the petition request. No
10 decisions regarding the merits of this petition will
11 be made at this meeting.

12 Following this meeting, the Petition
13 Review Board will conduct its internal deliberation.
14 The outcome of this internal meeting will be discussed
15 with the Petitioner. The Petition Review Board
16 typically consists of a Chairman, usually a Manager of
17 the Senior Executive Service level at the NRC. It
18 also has a Petitioner Manager and a PRB Coordinator.
19 Other members of the Board are determined by the NRC
20 staff based on the content of the information in the
21 petition request.

22 Therefore, at this time, I'd like to
23 introduce the Board. I'm Tim McGinty, the Petition
24 Review Board Chairman. Jason Paige is the Petition
25 Manager for the Petition under discussion today.

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1 Tanya Mensah is the Office's PRB, Petition Review
2 Board Coordinator. Audrey Klett is the Office of
3 Nuclear Reactor Regulation Technical Lead on Safety
4 Culture. Mr.. Marvin Sykes, who you've also heard on
5 the line is the NRC's Region 2 representative. We
6 also obtain advice from our Office of General Counsel
7 and today represented by Jenny Longo. We also have a
8 representative from the Office of Enforcement, Mr..
9 Ghasemian, who introduced himself earlier.

10 We also have a representative from the
11 Office of Investigations of the NRC, Mr.. Patrick
12 Jefferson, who you heard from earlier. I also -- the
13 PRB notified the NRC Office of the Inspector General
14 of the 2.206 PRB meeting today in consideration of
15 Mr.. Saporito's request that the OIG be in attendance.

16 OIG has requested a copy of the transcript of this
17 PRB meeting and we will be providing that.

18 As discussed in our process, the NRC staff
19 may ask clarifying questions in order to better
20 understand the Petitioner's presentation and to reach
21 a reasoned decision whether to accept or reject the
22 Petitioner's request for review under the 2.206
23 process. Florida Power and Light, the licensee for
24 Turkey Point has been invited to this meeting. They
25 are on the line and will be afforded an opportunity to

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1 ask clarifying questions of the Petitioner. For
2 clarification, the licensee is not part of the
3 decision making process for the NRC's review of 2.206
4 petitions. We invite the licensee so that they are
5 aware of requests for action against their facility
6 and provide an opportunity to ask any questions so
7 that they may understand the details pertaining to
8 their facility.

9 At this point, I'd like to summarize the
10 scope of the Petition under consideration and the NRC
11 activities to date. On January 11th, 2009, Mr..
12 Thomas Saporito submitted to the NRC a Petition under
13 2.206 regarding concerns with Turkey Point's Employee
14 Concerns Program. The acronym ECP will be used in the
15 future regarding that. In this petition request, Mr..
16 Saporito identified the following areas of concern.
17 Number one, request for issuance for an NOVCP, a
18 Notice of Violation of Civil Penalty for one million
19 dollars. Number two, request that the NRC issue a
20 confirmatory order modifying the Florida Power and
21 Light license to impose requirements for safety
22 culture assessments, ratings of supervisors and
23 managers by employees, training programs for all
24 supervisor and managers on safety conscious work
25 environment and the employee protection rule.

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1 And the licensee shall inform all
2 employees of the confirmatory order and their rights
3 to raise safety concerns. The proffered basis for the
4 two requests are that the licensee did a self-
5 assessment of its ECP which identified weaknesses and
6 areas for improvement in the ECP, that the NRC has
7 issues two NOVs, Notices of Violations for violations
8 of the Employee Protection Rule and that PFL has a 20-
9 year history of retaliatory action.

10 Allow me to discuss the NRC activity to
11 date. The NRR Petition Review Board has not met
12 internally to make an initial recommendation of the
13 2.206 petition. Following the conclusion of today's
14 call, the Petition Review Board will convene
15 internally to make an initial recommendation. You
16 will be informed of the initial recommendation.

17 As a reminder for all the phone
18 participants, please identify yourselves if you make
19 any remarks as this will help us in the preparation of
20 the meeting transcript that will be made publically
21 available. Thank you. With that, said, Mr..
22 Saporito, I'll turn it over to you to provide any
23 information you believe the PRB should consider as
24 part of this petition.

25 MR. SAPORITO: Thank you, Mr.. Chairman

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1 and my thanks go to the entire PRB for this
2 opportunity to allow the public to take part in this
3 important process, the process of regulating nuclear
4 power operations within the United States of America.

5 I would like to begin by redressing the comments made
6 with respect to my request for representation by the
7 Nuclear Regulatory Commission's Office of the
8 Inspector General. I specifically requested that
9 representation and I guess we'll have it through the
10 transcripts of this meeting being forwarded to that
11 office.

12 I requested that because the NRC, the
13 Nuclear Regulatory Commission, is mandated by the
14 United States Congress to ensure for the health and
15 safety of the general public with respect to the
16 operations of commercial nuclear reactors within the
17 continental United States. And in my opinion, the NRC
18 has failed to provide that measure of protection for
19 public health and safety with respect to operations of
20 Florida Power and Light Company's Turkey Point Nuclear
21 Power Plant. Insofar as the work environment at
22 Turkey Point Nuclear Power Plant, it's a very hostile,
23 retaliatory environment for those nuclear workers who
24 raise safety complaints.

25 And on that basis, the NRC is required,

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1 under law, to actively investigate and prosecute
2 claims of retaliatory conduct by Florida Power and
3 Light against its nuclear workforce at the Turkey
4 Point Nuclear Plant and those laws are formulated by
5 NRC regulation under the Code of Federal Regulations
6 10 CFR 50.7 and other similar regulations. In
7 particular Regulation 10 CFR 50.7 strictly prohibits
8 any retaliatory conduct by FPL management for -- taken
9 against any nuclear worker who raises a safety
10 complaint to FPL managers, to the United States
11 Nuclear Regulatory Commission or to the media.

12 The -- I guess the method of operation, if
13 you will, of the United States Nuclear Regulatory
14 Commission has been for years to take a wait-and-see
15 attitude approach to complaints of retaliatory conduct
16 by licensees line Florida Power and Light Company. In
17 other words, if a nuclear worker raises a safety
18 complaint and is ultimately fired, or somehow else
19 retaliated against for raising that safety complaint,
20 their only recourse is to file a lawsuit, a
21 whistleblower lawsuit with the United States
22 Department of Labor and that comes under the Energy
23 Reorganization Act of 1974 which is CODA 542 USCA
24 5851.

25 That's a very lengthy process. It can

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1 entail years of litigation and it -- you know,
2 usually, it's expense for the employee. The employee
3 is most likely subject to up-front costs of upwards of
4 10 to \$15,000.00 to retain adequate counsel to
5 represent his or her interests. So the NRC, like I
6 said, earlier, takes a wait-and-see approach. They'll
7 say, "Well, you know, did the employee file a
8 whistleblower complaint with the Department of Labor?

9 The initial investigation is done with the
10 Occupational Safety and Health Administration, OSHA.
11 If the employee has filed such a complaint, then, NRC
12 does nothing. They sit back and they wait and they
13 look at all the pleadings and they're styled in the
14 case and they wait to see what the Administrative Law
15 Judge decides. They wait to see if the decision is
16 appealed to the Administrative Review Board who sits
17 in place of the United State Secretary of Labor in
18 adjudicating the case. Then they wait to see if the
19 ARB's decisions appeal to the 11th Circuit or the
20 applicable Circuit Court of the United States. Then
21 they wait and see if that's appealed to the United
22 States Supreme Court.

23 So you could have retaliation go on for
24 years and years and years at these nuclear plants
25 without any redress by the Nuclear Regulatory

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1 Commission and that's why the NRC Office of the
2 Inspector General need to intervene and they need to
3 intervene immediately. They need to insure that the
4 applicable regions of the NRC around the United States
5 with requisite jurisdiction for their nuclear power
6 plants which they oversee that their Office of
7 Investigation immediately conducts investigations
8 before any complaint of retaliation by any nuclear --
9 or for any nuclear power plant in the United States.

10 You cannot sit back for years and years
11 and years and just watch another agency do your job
12 for you and on the basis of what may come from a Labor
13 decision and use that as a basis to whether you're
14 going to make an adjudication whether there's a
15 nuclear safety violation with respect to 10 CFR 50.7.

16 It just doesn't make any sense and it's not -- it
17 does not meet the spirit of the law which Congress
18 intended when they passed the Energy Organization Act
19 which created the agency which we now call the United
20 States Nuclear Regulatory Commission.

21 All right, having said that, I
22 respectfully request on the record that the OIG,
23 Office of Inspector General, meet with me as soon as
24 reasonably possible so that I can provide them first-
25 hand information and knowledge that I'm aware of

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1 regarding violations of NRC requirements with respect
2 to Florida Power and Light Company's retaliation
3 against nuclear workers at the Turkey Point Nuclear
4 Power Plant and at the St. Lucie Nuclear Power Plant.

5 So I want that on the record that I'm making this
6 official request for their intervention and for them
7 to personally meet with me.

8 All right, I'm going to move on now.
9 There were several documents I had given to Mr.. Paige
10 and I had asked him to provide to the PRB. Has the
11 PRB been provided those documents?

12 MR. PAIGE: They were provided with those
13 documents?

14 MR. SAPORITO: Okay, thank you very much
15 for your help on that. The petition, as the Chairman
16 had outlined, is centered on employees raising safety
17 concerns at the Turkey Point Nuclear Plant and unless
18 you want an individual, a nuclear worker raise safety
19 concerns at a nuclear power plant and been retaliated
20 against, you have -- you do not have a requisite
21 understanding of what happens to that employee and
22 before I get into the specifics of this petition, I
23 want to just give the Petition Review Board a brief
24 history of myself.

25 I worked for Florida Power and Light

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1 Company back in 1988. I worked at the Turkey Point
2 Nuclear Power Plant in 1988. I was an instrument
3 control technician. And we were -- in instrument
4 control technician, along with the license plant
5 operators are the heart of any nuclear power plant
6 because we deal with all the functioning
7 instrumentation, pressure, temperature and flow and
8 all the indicators that the operator relies on in
9 operating the plant safely for the benefit of the
10 public.

11 Well, I raised safety concerns back then
12 in 1988 and they had an organization called INPO, the
13 Institute of Nuclear Plant Operators. I raised all my
14 safety concerns to management through my work orders
15 and I was mainly complaining about procedure
16 violations and the like. And you have safety-related
17 procedures. That's a safety concern because if you
18 violate a procedure and if it's a 10-step procedure,
19 you skip from step one to step eight, well, you know,
20 you could have not calibrated a piece of equipment
21 right. The operator is going to rely on your
22 calibration. You could cause a nuclear accident if
23 it's not correct. So that's a very important concern.

24 Management failed to address it. I went
25 to INPO, who were on site at the time. No action was

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1 taken. I ultimately went to the United States Nuclear
2 Regulatory with my concerns. Management was well-
3 aware of all of these actions and throughout that
4 seven or eight-month period of time, in 1988 they
5 accused me of, you know, abusing my sick leave and
6 they said, "Oh, you made a racial slur". And then
7 they tried disciplining me on poor performance. All
8 these measures failed because they were all untrue.

9 It got to the point, to the very end of
10 that year in late November when the site Vice
11 President ordered me to a high level management
12 meeting and ordered me to tell him what my safety
13 concerns were and I said, "I already told the NRC".
14 And I refused to divulge them to him, in them days
15 those people knew the whole time. Anyway, a week
16 later, I have this -- we had been working seven days a
17 week, 10, 12 hours a week, during and outage and I'd
18 been, you know, harassed and retaliated against for
19 eight months and I was feeling very sick. And the,
20 Odom, the Vice President of the company for that plant
21 orders his maintenance superintendent, for me to come
22 to his office because he wanted to ask me about these
23 safety concerns again and I said, "I'm sick, I'm going
24 home. I've been here all day".

25 So they suspended my employment and then I

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1 go to a doctor and I get diagnosed with severe
2 gastritis and pending ulcer because of all this abuse
3 I've been and stress I had been under there from them.

4 I come back to work and then Odom orders me to see a
5 company doctor to see if I'm fit for duty to come work
6 at their nuclear plant after all that, after my doctor
7 had already cleared me to come back to work.

8 Well, of course, I filed a whistleblower
9 complaint. The matter went to court and the -- and it
10 went back -- initially, that was ruled in my favor by
11 the Secretary of Labor. And then it went back to
12 court. You know, FPL has all the money and all the
13 high powered attorneys. They eventually won out
14 because, you know, I eventually got divorced. They
15 fired me three days before Christmas and I ended up
16 after subsequently getting divorced after all that,
17 and you don't have any money.

18 And you're trying to find jobs in the
19 nuclear field and then you got FPL haunting you
20 throughout your career from that action. But the
21 point is when you read the 2.206 and then you -- the
22 PRB is going to eventually get responses from the
23 licensee, Florida Power and Light management, you have
24 to understand that Florida Power and Light is a very
25 disingenuous company. Their responses are not -- you

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1 can't believe them on their face. When the Secretary
2 of Labor reviewed my particular case, he ruled that
3 Odom's testimony under oath was disingenuous because
4 Odom knew that I had went to the NRC and Odom didn't
5 have to have those safety concerns because he knew the
6 NRC was taking care of them and that there was no
7 immediate safety concern. Odom had personally called
8 Region 1 and talked to George Jenkins. He talked to
9 Oscar DeMiranda, Jenkins was the Director of
10 Enforcement at the time and I think DeMiranda still
11 works out there. He's one of the allegation
12 coordinators. So he knew when he called me to those
13 meetings that I'd had no immediate safety concerns,
14 but yet he went to court and said, oh, he had to know
15 what that information was and because I refused to
16 tell him, that was insubordination.

17 That was one reason they fired me. The
18 second reason was because a week later they tried to
19 call me in to a meeting again to get the same safety
20 concerns and I again, refused to meet with them about
21 my safety concerns. That was reason two for firing me
22 and the third reason for firing me was because I
23 refused to be examined by a company doctor to find out
24 if I was able to work at their nuclear power plant.
25 But do you know what happened, when we went to court,

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1 Odom testified under oath that if I had not raised any
2 safety complaints at Turkey Point in 1988, he would
3 have no reason to fire me. That's what he testified
4 to under oath and then he testified that he fired me
5 before he ordered me to go to the company doctor
6 because in his mind, surmised I would refuse to be
7 examined, so his reasons for firing me are all illegal
8 and yet, you know, this is what 22 years later, more
9 than that, over 20 years later FPL still wins and so
10 in all this time, all of this 20 something years, the
11 NRC did nothing, the NRC Office of Investigation never
12 conducted a 50.7 investigation, never, and they just
13 waited and waited year after year after year after
14 year after year for all this litigation.

15 I took it all the way to the United States
16 Supreme Court and, of course, a pro se litigant, it's
17 very hard to get recognized up there, especially under
18 the Bush Administration. Nonetheless, you need to
19 understand that perspective. This is what an employee
20 goes through and this is why it's so important for the
21 NRC to take the lead in conducting 10 CFR 50.7
22 investigations well ahead, well ahead of the
23 Department of Labor process. And as a point of
24 reference, when I left Florida Power and Light, when
25 they fired me, I worked South Texas Nuclear Power

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1 Plant and I raised safety concerns there and I got
2 fired there as a contractor for raising safety
3 concerns and yeah, I filed a whistleblower complaint
4 but what happened different there was the NRC
5 investigated. The NRC OI was on top of that and they
6 found that they illegally fired me in retaliation of
7 my safety complaints. I went to court and prosecuted
8 them from the highest level down and days before the
9 ALJ was going to rule, they settled that case.

10 And so what happened was, the NRC
11 initially proposed a \$100,000.00 penalty because their
12 own Office of Investigations found they had illegally
13 retaliated but because the utility settled, they
14 withdrew the penalty, they withdrew the violation like
15 it never happened. That sends an incredibly wrong
16 message to all my coworkers at the South Texas Nuclear
17 Power Plant. I just -- it's there at least to confuse
18 a most reasonable individual of what -- were they
19 protected, were they not protected? Did they do
20 something wrong to Saporito or didn't they? I mean,
21 the NRC said they did and they fine them \$100,000.00
22 and then you know, several months later they said,
23 "Well, you know, we were going to withdraw that
24 penalty", and they really didn't do anything.

25 It's just a mess and then all this has

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1 continued since the inception of the United States
2 Nuclear Regulatory through the Energy Reorganization
3 Act of 1974. It's just gotten worse and worse and
4 worse. And here we are a country dependent on foreign
5 oil. Thank God, Barack Obama got elected as President
6 and he's going to decrease our dependence on foreign
7 oil but in the interim, the NRC is rubber-stamping all
8 these new nuclear power plants around the United
9 States.

10 Turkey Point wants to build two more
11 nuclear plants down here. They can't even effectively
12 manage the two they have, but they want to build two
13 more and the NRC is in the process of rubber stamping
14 those applications. Crystal River wants to put a
15 couple more nuclear plants out there. Well, I think
16 before we do all this rubber-stamping of authorization
17 of new plants, we need to take a hard look of is the
18 NRC effectively insuring for the health and protection
19 of the public by making these utilities foster work
20 environments which give the nuclear worker an
21 unfettered right to raise safety complaints without
22 any fear of retaliation.

23 So that's why the Inspector General needs
24 to act and they need act fast. With respect to this
25 2.206 petition, I request that a million dollar

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1 penalty. You know, it probably should be upwards of
2 \$100 million so they get the point. A million dollars
3 is nothing to this utility. Each reactor brings them
4 revenues of a million dollars a day and as we get into
5 this, you'll see how important that revenue is to the
6 utility in silencing the workforce at Turkey Point.

7 But the gist and the bottom line of this
8 2.206 is to get the NRC to act in issuing a
9 confirmatory order, ordering FPL to hire an
10 independent contractor to come and evaluate the work
11 environment at Turkey Point Nuclear Plant and only
12 through an independent agency, someone that's
13 independent of the government and independent of FP&L
14 can the NRC get a true assessment of what the
15 conditions are at the plant. Now, the utility has
16 over the years done self-assessments and I want to get
17 into those but before I do, I want to go back. I want
18 to go back to the issue of credibility of the licensee
19 and in this case it's the Florida Power and Light
20 Company. Their credibility is called into question
21 significantly here.

22 And PRB needs to first determine the
23 credibility of their licensee before they can take any
24 of the responses to this 2.206 in any measure of
25 earnesty. And right now for the PRB to refer to the

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1 document that's dated November 24th, 2008 on the cover
2 sheet. It's from the State of Florida Office of
3 Public Counsel, on the second page it's entitled
4 "Citizens Brief on Issue 13C". I'll give you a few
5 minutes to get that in front of you because I want to
6 touch on that briefly.

7 MR. MCGINTY: Sir, are we ready? Could
8 you again tell us exactly what the title of the
9 document is?

10 MR. SAPORITO: Yes, sir, on the cover
11 sheet it has the State of Florida, Office of Public
12 Counsel. On the left-hand corner, it's Jeff Atwater,
13 President of the Senate and underneath that is the
14 seal for the State of Florida and underneath that is
15 J.R. Kelly Public Counsel.

16 MR. MCGINTY: Okay, at this point in time,
17 we do not have that document in front of us. I would
18 appreciate it if you would please walk us through it.

19 MR. SAPORITO: Okay, because I sent you
20 all these documents several days ago.

21 MR. MCGINTY: Did you send it
22 electronically or by --

23 MR. SAPORITO: Yes, through in your e-
24 mail.

25 MR. MCGINTY: And to whom, please?

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1 MR. SAPORITO: To you.

2 MR. MCGINTY: To Jason Paige?

3 MR. SAPORITO: You and I copied several
4 branches of the United States NRC.

5 MR. MCGINTY: Okay, this is Tim McGinty,
6 the PRB Chair.

7 MR. SAPORITO: Oh, I thought you were Mr..
8 Paige, I'm sorry.

9 MR. MCGINTY: I'm trying to be clear about
10 that. So you sent it to Jason Paige?

11 MR. SAPORITO: Yes, sir, Jason Paige. I'm
12 sorry, you sound like him.

13 MR. MCGINTY: All right, stand by one
14 second, please.

15 MR. SAPORITO: All right.

16 MR. MCGINTY: Dated November 24th,
17 identified as Ann Cole as the Commission Clerk?

18 MR. SAPORITO: Yes.

19 MR. MCGINTY: Okay, yes, we have a copy of
20 that.

21 MR. SAPORITO: Okay, are you prepared for
22 my review at this time?

23 MR. MCGINTY: Yes.

24 MR. SAPORITO: Okay, if you turn -- flip
25 that first cover page and this next page is entitled

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1 "Citizen's Brief on Issue 13". This is a pleading
2 that was filed by the attorneys representing the
3 public before the State of Florida's Public Service
4 Commission regarding a rate case. It's actually a
5 fuel and purchase power recovery case where FPL tries
6 to recoup some costs associated with operations of
7 their nuclear power plants.

8 And parts that I want to point out here,
9 it says here on this first page, it talks about
10 Florida Power and Light granting unescorted access to
11 an individual, he was a contractor, who later
12 vandalized the plant. He vandalized the plant by
13 drawing a one-inch deep hole in I believe it was a
14 pressurizer loop, but it goes on to say in the center
15 of the first paragraph on that page, it says, "In
16 sworn testimony, FPL assured the Commission," being
17 the Public Service Commission in this case, "that
18 prior to his being granted unescorted access,
19 unescorted nuclear plant access, the individual was,
20 quote `subject to and successfully completed FPL's
21 rigorous access and fitness for duty screening
22 process', unquote."

23 And then it talks about the sworn
24 testimony describes several steps of the screening
25 process and concluded that quote "failure to

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1 successfully complete any of these steps will result
2 in the individual being denied unescorted access to
3 FPL's nuclear facilities", end quote. And the Counsel
4 urges, it says, "The sworn testimony did not even hint
5 that the vandal's application", the vandal being the
6 guy that drilled the hole, "that the vandal's
7 application may have shown any red flags for potential
8 problems. FPL contends that nothing possible could
9 have been foreseen". That was the licensee's
10 contention before the Commission.

11 However, Friday, the Friday before the
12 hearing, the public hearing was held in Tallahassee,
13 FLP produced a document that the utility received
14 approximately one month earlier and the document was
15 field notes written by an FBI agent who was assigned
16 to investigate that particular case. If you'll turn
17 to the next page at the very top, it talks about that
18 the questionnaire was completed as part of the
19 vandal's screening process and this is -- we're
20 talking about the screening process for the Turkey
21 Point Nuclear Plant. And that Defendant's screening
22 process and has been in the possession of FP&L since
23 February of 2006. Okay, FP&L had this document two
24 years earlier and they withheld it from the Public
25 Service Commission and from the attorneys representing

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1 the public in this matter and from the Public Service
2 Commission staff. For two years they had this
3 document. FPL, however, chose not to present the
4 questionnaire to the Commission. The field notes
5 paint a strikingly different picture of the relevant
6 information on the vandal, about the vandal which FPL
7 had in its possession when it granted unescorted
8 nuclear plant access.

9 And if you'll skip down to the next
10 paragraph it says, "While assuring the Commission that
11 the individual had been rigorously screened, FPL's
12 sworn testimony never even mentioned that there
13 existed anything on the questionnaire that could
14 possibly call the individual's background into
15 question." And it talks about, "Instead FLP cited all
16 the areas that the vandal had been screened and
17 passed", and they stated that, "The process required
18 him to successfully complete an FBI criminal history
19 verification with no disqualifying criminal background
20 and to successfully complete drug and alcohol
21 screening."

22 Then the public argues that, "As we know,
23 however, the vandal had been arrested in 1999,
24 reckless -- criminal recklessness, criminal mischief
25 charges, 1990 driving under the influence, 1991

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1 discharging a firearm in public, 1989, public
2 intoxication, 1989, reckless driving" and the vandal
3 responded yes, on FPL's questionnaire, "Have you ever
4 used or sold illegal drugs"? And finally, FPL's sworn
5 testimony assured the Commission that the vandal,
6 quote, "passed a rigorous psychological examination
7 consisting of nearly 600 questions with the responses
8 screened for psychological stability and other
9 characteristics. As required individuals may be
10 subject to further psychological review, including
11 interviews by a licensed psychologist.

12 The FBI field notes however, indicated
13 that the individual quote 'failed his psychological
14 test', unquote, but, quote, 'received clearance from
15 the physician in order to gain plant access',
16 unquote". Now, you have the licensee, Florida Power
17 and Light Company, putting on licensing managers,
18 managers that work for the licensee, in a court of law
19 to so speak, before the Public Service Commission,
20 where they're sworn under oath to tell the truth and
21 this is what you get. You get these mistruths. You
22 get evasions by their attorneys trying to paint a
23 picture that you know, we met all the NRC regulations
24 when we gave this guy plant access, and so it's not
25 our fault. You know, the public should have to pay

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1 the \$6 million. It's not our fault, but when the
2 reality comes out, the licensee withheld relevant,
3 material and damning evidence which shows otherwise.
4 It shows that there was all kinds of flags, red flags
5 for the licensee not to grant this individual
6 unescorted access to Turkey Point Nuclear Plant.

7 They put this witness on, Mr.. Jones, and
8 his explanation to the FBI report, et cetera, et
9 cetera, that well, you know, he never actually looked
10 at the vandal's questionnaire but instead he based his
11 sworn testimony on insurances from Mr.. Bomthron.
12 It's spelled B as in Baker, o-m-t-h-r-o-n. So he
13 says, the attorney is saying the problem facing the
14 Commission is that Mr.. Jones did not examine the
15 vandal's questionnaire to date but he continues to
16 base his representations to the Commission on
17 representations of the same made by Mr.. Bomthron, who
18 apparently led Mr.. Jones to believe there was no
19 reason to disclose to the Commission all of the red
20 flags appearing on the vandal's security
21 questionnaire. So this is totally outrageous. You've
22 got a licensee individual for Turkey Point, this guy
23 Bomthron who's coaching a Mr.. Jones who is going to
24 testify under oath about the licensee's conduct in
25 allowing a contractor to work at that nuclear power

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1 plant, a contractor who should never have been granted
2 unescorted access to that nuclear power plant.

3 So these are the deceptions, okay, the
4 disingenuousness of the licensee that we're talking
5 about here, the Florida Power and Light Company. What
6 their attorneys do in courts of law and especially in
7 whistleblower cases, is to try to evade
8 accountability. If you'll turn to page 12 of that
9 same document on the second paragraph down, the
10 attorney goes on, he says, "This revelation raises the
11 issue of the adequacy of FPL's training of workers
12 with access to nuclear power plants. Workers with
13 this access must be thoroughly trained in the
14 importance of reporting anything that could possibly
15 be a concern. The failure of the coworker to report
16 this incident" -- I'm sorry, I need to back you up to
17 page 11. I got head of myself.

18 MR. MCGINTY: Mr.. Saporito?

19 MR. SAPORITO: Yes, sir.

20 MR. MCGINTY: This is Tim McGinty, the PRB
21 Chair. I just want to make sure that you understand
22 that this meeting is scheduled for an hour. We also
23 have, as part of the meeting, there's opportunities
24 for others to ask questions. We really -- you only
25 have at this stage, I would say about five more

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1 minutes to provide the information that concludes your
2 presentation of any information you believe the PRB
3 should consider as part of the petition. I wanted to
4 call that to your attention.

5 MR. SAPORITO: Well, let me call to your
6 attention that I have an e-mail in front of me from Mr
7 Paige showing me I would be given at least an hour and
8 my understanding of regulations that provide for this
9 opportunity for the public's participation in 2.206
10 process there is no limitations on time. So if we
11 need to reconvene, we can certainly do that but you're
12 not going to hold me to five minutes. I have much
13 more to say here on this petition, sir.

14 MR. PAIGE: In the e-mail I sent to you,
15 it was a follow-up e-mail confirming the call today, I
16 specifically said 40 minutes for your presentation.

17 MR. SAPORITO: Okay, I'm not confined to
18 40 minutes, number one. And number two, with all the
19 introductions and identifications and the
20 announcements took place, you stuffed the majority of
21 my 40 minutes in my opinion if that's the 40 minutes
22 you're talking about.

23 MR. MCGINTY: Well, actually, we're pretty
24 much right on schedule according to what Mr. Paige
25 transmitted in terms of the timeliness. Again, we

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1 really shouldn't -- I'd like you to get to the
2 information that you need for the PRB to consider. We
3 only have a few -- we have a few more minutes left.
4 We have several folks that have other competing
5 priorities. We're going to have to terminate the call
6 at 2:00 o'clock any way that you cut it.

7 MS. LONGO: Mr. Saporito, you need to
8 understand when this call was scheduled, it went
9 through a call center and they have a certain amount
10 of time blocked aside for it. They cannot keep the
11 line open indefinitely.

12 MR. SAPORITO: Well, that's fine. We can
13 reconvene when it's convenient for the agency. I
14 would urge that we reconvene as soon as possible, but
15 I have a lot more information to talk about and you
16 know, and I'm not going to be held to any four-minute
17 conference in the least part where the majority of
18 that time was taken up with introductions. The public
19 has a right to participate in these proceedings. It's
20 a right with no time limitations under the directives
21 that you've stated earlier in this meeting.

22 MR. MCGINTY: If you want to provide
23 additional information after this meeting, then please
24 provide it in writing to us. The extent of this
25 meeting has been clearly conveyed.

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1 MR. SAPORITO: Well, I -- well, I take
2 exception to that, number one. I think the public
3 process has to be when were I can talk to the PRB
4 because I need to convey certain information which
5 would not otherwise come across in the manner it needs
6 to in writing.

7 MR. MCGINTY: You've been doing it for 40
8 minutes.

9 MR. SAPORITO: I need to -- if we need to
10 reschedule, then let's reschedule, but --

11 MR. MCGINTY: If you have additional
12 information, please provide it in writing to us. You
13 can send it directly to --

14 MR. SAPORITO: No, I take exception to
15 that. I'm requesting on this public record an
16 opportunity to reconvene with the PRB with sufficient
17 time that I can address the rest of my concerns. This
18 is a matter of public health and safety and on that
19 basis, I express the urge to the agency to comply with
20 its own rules.

21 MR. MCGINTY: Mr. Saporito, there is
22 another opportunity in accordance with the process
23 after the PRB meets to consider the information that
24 you've provided and have come to our initial
25 recommendation to address the Board and you'll have

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1 that opportunity again.

2 MR. SAPORITO: Well, how is the Board
3 going to make any relative meaningful decisions on the
4 first viewing of this information if they don't have
5 all the information in front of them? They don't have
6 all my comments. They don't have all my concerns and
7 yet you're going to have them do a preliminary
8 evaluation and then --

9 MR. MCGINTY: Like I said, please forward
10 your concerns in writing and we'll have all that
11 information before us.

12 MR. SAPORITO: Let the record reflect, I
13 will forward my concerns in writing to the Office of
14 the Inspector General urging the Inspector General to
15 investigate the NRC and forcing the public's interest
16 in public health and safety by denying me an
17 opportunity to participate in this process as required
18 by the NRC's own regulations. That's what you'll get
19 in writing.

20 MR. MCGINTY: That's fine. So to that --
21 at this point in time, recognizing that you are going
22 to provide additional information in writing, does
23 that conclude your presentation at this point in time
24 with respect to information that you're providing to
25 the PRB related to your petition?

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1 MR. SAPORITO: No, and I object to your
2 mischaracterization of what I just said. I did not
3 agree to provide the NRC -- PRB with any additional
4 information. What I said on the record that was going
5 to file a complaint with the Office of Inspector
6 General, the NRC Office of the Inspector General, with
7 a complaint to President Barack Obama's Office of
8 Professional Responsibility to see why the NRC doesn't
9 want to allow public health and safety concerns to be
10 raised in this 2.206 process as the regulations
11 require.

12 MR. MCGINTY: I understand that and again,
13 I will reiterate that we will gladly accept any
14 additional information after this meeting that you
15 provide in writing and also that you will have another
16 opportunity to address the PRB after we've made our
17 initial recommendation. So at this time, I'm going to
18 ask any staff here at headquarters whether you have
19 any questions of Mr. Saporito.

20 We also, Mr. Sykes in the Region, do you
21 have any questions of Mr. Saporito?

22 MR. SYKES: No, I don't.

23 MR. MCGINTY: Does the licensee have any
24 questions of Mr. Saporito?

25 MR. BLAIR: No, no, we don't.

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1 MR. MCGINTY: Does any of the staff here
2 at headquarters have any questions for the licensee?

3 MS. LONGO: Yes, this is Jenny Longo. I'd
4 like to ask the licensee to provide a copy of the
5 bonus agreements mentioned in this article by Mr.
6 Dorschner at the Miami Herald saying that many signed
7 bonus agreements have a clause in which the individual
8 promises not to -- any time refuse to make any
9 statements that may be derogatory, detrimental to the
10 company's good name. Can we have a copy, please, of
11 your standard bonus agreement?

12 MR. BLAIR: Ms. Longo, this is Bill Blair,
13 Florida Power and Light. As I understand your
14 request, we view that to be outside the scope of the
15 2.206 petition. If you don't or if you do, please put
16 your request in writing and we will respond to it
17 appropriately.

18 MS. LONGO: Actually, this is within the
19 scope.

20 MR. BLAIR: Okay, thank you. Then put
21 your request in writing and we'll be happy to respond
22 to it.

23 MS. LONGO: Mr. Blair, I'm sorry, Mr.
24 Saporito submitted an article by Mr. Dorschner and
25 this was part of his petition which he claims that a

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1 safety culture problem in which people are being
2 chilled from saying anything -- raising concerns
3 because people are signing these bonus agreements in
4 which they promise not to make any derogatory
5 statements. Are you willing to provide a copy of
6 those bonus -- an unsigned copy. I'm not asking you
7 to submit a copy of one signed by somebody. I just
8 want to see the form.

9 MR. BLAIR: Ms. Longo, absolutely. I said
10 that I would if you put your request in writing. The
11 fact that Mr. Saporito includes a newspaper article as
12 one of his sources doesn't strike me as particularly
13 persuasive but if you find it and you want to
14 investigate it, all we ask is that you make that
15 request in writing and we'll respond appropriately.

16 MS. LONGO: The staff and I'd like to see
17 it. Are you saying that there's no such form?

18 MR. BLAIR: I'll ask that you put your
19 request in writing and I agree that we would respond
20 appropriately.

21 MS. LONGO: Are you saying that there's no
22 such form?

23 MR. BLAIR: I am not saying there is no
24 such form. There is an agreement that is entered into
25 between the company and recipients of retention bonus

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1 agreements. And if you request it in writing, I will
2 send it to you.

3 MS. LONGO: Well, I'm going to have to ask
4 you to supply a name and address and telephone number
5 if we make that request.

6 MR. BLAIR: Certainly. My name is William
7 S. as in Stuart Blair, B-l-a-I-r. Florida Power and
8 Light Company, 700 Universe Boulevard, U-n-I-v-e-r-s-
9 e, Boulevard, Juno Beach, Florida, J-u-n-o, B-e-a-c-h,
10 Florida and the zip code is 33408.

11 MS. LONGO: Thank you.

12 MR. MCGINTY: This is Tim McGinty once
13 again, the PRB Chair. Before I conclude the meeting,
14 member of the public may also provide comments
15 regarding the petition and ask questions about the
16 2.206 petition process. As I stated at the opening,
17 however, the purpose of this meeting is not to provide
18 an opportunity for the Petitioner or the public to
19 question or examine the PRB regarding the merits of
20 the petition request. Do any of the members of the
21 public have any questions?

22 (No response)

23 MR. MCGINTY: Okay, with that said, Mr.
24 Saporito, I'd like to thank you for taking the time to
25 provide the NRC with clarifying information on the

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1 petition you've submitted. I would also, again,
2 invite you to provide any additional information that
3 you have in writing and we will have an opportunity to
4 discuss the information that you provide again
5 subsequently after the PRB has met to make an initial
6 recommendation. With that this --

7 MR. SAPORITO: Okay, I would like to ask
8 Mr. Paige to e-mail me the address where he wants
9 additional information so I can forward him these
10 other documents, these other complaints which will
11 include documents that you're requesting. So if he
12 would e-mail me an address, I'll be sure that you get
13 the documents that you need to have.

14 MR. PAIGE: Okay, I'll go ahead and do
15 that.

16 MR. MCGINTY: We will do that. So thank
17 you very much. With that, the meeting is concluded
18 and we'll be terminating the phone connection. Hold
19 on one second.

20 (Whereupon, at 1:57 p.m., the above-
21 entitled matter concluded.)
22
23
24
25

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