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May 1, 2009

Document Control Desk  
U.S. Nuclear Regulatory Commission  
Washington, D.C. 20555-0001

**Subject: Levy Nuclear Power Plant, Units 1 and 2  
Docket Nos. 52-029 and 52-030  
Notification to Withdraw Request for a Limited Work Authorization**

- References:
1. Letter from James Scarola (PEC) to NRC (NPD-NRC-2008-022), dated July 28, 2008, "Application for Combined License for Levy Nuclear Power Plant Units 1 and 2, NRC Project Number 756"
  2. Letter from James Scarola (PEC) to NRC (NPD-NRC-2008-031), dated September 12, 2008, "LNP COLA Supplemental Information"
  3. Letter from Brian Anderson (NRC) to James Scarola (PEC), dated February 18, 2009, "Levy County Nuclear Power Plant Units 1 and 2 Combined License Application Review Schedule"

Ladies and Gentlemen:

Progress Energy Florida (PEF) submitted an application (Reference 1) for a combined license for two AP1000 passive pressurized water reactors to be located at a site in Levy County, Florida.

As part of that application, PEF requested a Limited Work Authorization (LWA) under 10 CFR 50.10(d) be issued before issuance of the Combined License (COL) to allow the early performance of safety-related construction activities. The scope of construction activities requested to be included in the LWA is addressed in Part 6 of the COLA, "Limited Work Authorization and Site Redress Plan." In that application, Progress requested the NRC consider the following milestones:

- \* June 2010 - Final Environmental Impact Statement (FEIS) Issued
- \* September 2010 - LWA Issued
- \* January 2012- COL Issued

PEF did not include in the original LWA scope work to install the Diaphragm Wall and Grouting required for excavation. Because these activities are a necessary prerequisite to excavation at Levy without excessive dewatering, PEF considered these activities to be pre-construction activities under 10 CFR 50.10(a)(2)(v). These activities were to only be

employed as a means to limit groundwater intrusion into the excavation for the nuclear island and do not have a reasonable nexus to radiological health and safety or common defense and security. As agreed in discussions with the NRC as needed to find the COLA acceptable for docketing, PEF revised the COLA to include the diaphragm wall and grouting in the scope of the LWA request, but stated if further NRC review resulted in a determination that the diaphragm wall and grouting may be conducted as pre-construction work, PEF's intent would be to remove these activities from the LWA scope in order to achieve schedule and cost efficiency benefits associated with the originally proposed LWA work (Reference 2).

The NRC published the review schedule for the Levy COLA on February 18, 2009 (Reference 3). That letter identified that the FEIS would be issued no earlier than September 2010. In that letter, NRC stated the following: "During a January 23, 2009, teleconference call, we discussed with members of your staff how the complex geotechnical characteristics of the Levy County site relate to the LWA review. We understand now that you plan to modify the scope of activities requested in the LNP LWA. Upon receipt of your letter which identifies the current planned scope of LWA activities, we will prepare a review schedule related to the LNP Units 1 and 2 LWA. As such, the dates provided in Table 1 represent milestones related to COL issuance alone."

Subsequent to NRC issuing the February 18, 2009 letter, PEF has studied how the scope of LWA activities could be modified and still provide a meaningful schedule advantage and construction cost efficiencies compared to starting construction activities once a COL was issued. Because the originally requested LWA activities cannot be commenced before the COL, the schedule benefits and efficiencies in construction work originally envisioned by Progress cannot be achieved. Furthermore, there is no significant benefit to performing the diaphragm wall as an LWA activity without the grouting work as that would not allow excavation to proceed. As stated in the NRC schedule letter of February 18, 2009, Progress's suggested milestones and proposed scope for LWA activities are not feasible due to the timeframe for the NRC to review the complex geotechnical characteristics of the Levy site. Therefore, there appears to be no significant benefit in continuing to pursue an LWA.

Progress remains committed to meeting the identified need of its Florida customers for efficient and effective baseload power that also accomplishes the State's objectives for adequate fuel diversity and security, reducing greenhouse gas emissions, lessening reliance on more volatile priced fossil fuels, and increasing reliable baseload power plant capacity. PEF continues to believe that maintaining the option of constructing nuclear power plants at Levy is important to achieving these objectives. It appears there is no significant benefit for an LWA to balance the schedule risk that could arise from splitting effort between LWA and COL reviews. PEF concludes that the objectives of preserving the option for nuclear power to meet its Florida customers' needs can be facilitated by concentrating review efforts on issuing the COL, particularly because it is clear an LWA would not accomplish the objectives of Progress's original proposal. As a result, PEF has decided to no longer pursue an LWA, and is hereby notifying NRC that it is withdrawing its request for an LWA and requests that the NRC not continue to perform any review activities associated with an LWA.

Conforming changes to the COLA to reflect the removal of the LWA are not being proposed at this time, but will be included in the annual update of the FSAR and accompanying changes to the environmental report and other COLA Parts.

If you have any questions, or need additional information, please contact me at (919) 546-6107 or Bob Kitchen at (919) 546-6992.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on May 1, 2009.

Sincerely,

A handwritten signature in black ink, appearing to read "Garry D. Miller". The signature is fluid and cursive, with the first name "Garry" being the most prominent part.

Garry D. Miller  
General Manager  
Nuclear Plant Development

cc : U.S. NRC Director, Office of New Reactors/NRLPO  
U.S. NRC Office of Nuclear Reactor Regulation/NRLPO  
U.S. NRC Region II, Regional Administrator  
Mr. Brian C. Anderson, U.S. NRC Project Manager