FPL

Florida Power & Light Company, 700 Universe Boulevard, P.O. Box 14000, Juno Beach, FL 33408-0420

NOV 05 2009

L-2009-256
10 CFR 50.4
10 CFR 50.75

U.S. Nuclear Regulatory Commission
Attn: Document Control Desk
Washington, DC 20555

Re: NextEra Energy Duane Arnold, LLC
Duane Arnold Energy Center
Docket No. 50-331

Subject: Response to Requests for Additional Information

By letter dated October 6, 2009, the Nuclear Regulatory Commission Staff (NRC) issued Requests for Additional Information (RAIs) related to the decommissioning funding status for NextEra Energy's ownership interests in the Duane Arnold Energy Center (DAEC). NextEra Energy's responses to the Staff's RAIs are provided in the Enclosure to this letter.

Should you have questions regarding NextEra Energy's responses to the Staff's RAIs, please contact Mitchell Ross, Vice President and General Counsel – Nuclear at 561-691-7126, or Lisa Fuca, Nuclear Business Operations, at 561-691-7604.

Sincerely yours,

M.K.N.

Mano Nazar
Senior Vice President, Nuclear and
Chief Nuclear Officer

Enclosure

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NRR

Enclosure – NRC Staff's Requests for Additional Information - Duane Arnold Energy Center

The Nuclear Regulatory Commission (NRC) staff has reviewed your submittal, dated July 27, 2009, outlining FPL Energy Duane Arnold, LLC's (FPL Energy) proposed plan of action to cover deficiencies in providing decommissioning funding assurance discovered in its 70 percent ownership of Duane Arnold Energy Center (DAEC) Biennial Decommissioning Funding Report that was submitted on March 27, 2009. At that time, the NRC staff estimated a projected deficiency in decommissioning funding assurance of approximately $48 million in total. This reflects the review of all three owners of DAEC, for decommissioning funding assurance.

In the July 27, 2009, submittal, FPL Energy states that the decommissioning trust fund balance as of June 30, 2009, has grown to $167.5 million, an increase of $3.9 million from the December 31, 2008 balance indicated in the Biennial Decommissioning Funding Report that was submitted on or about March 31, 2009, by FPL Energy Duane Arnold, LLC.

FPL Energy has also proposed the use of a Parent Company Guarantee (PCG), based on a value derived by discounting the Minimum Decommissioning Funding Formula amount from the projected value at the time of permanent secession of operations, to a present value at the end of calendar year 2009. FPL Energy believes that the combination of the increased decommissioning trust fund balance as of June 30, 2009, along with the proposed discounted PCG, provides decommissioning funding assurance.

On July 27, 2009, FPL submitted a plan on behalf of the licensed owners, FPL Energy, 70 percent owner, and Central Iowa Power Cooperative (CIPCO), 20 percent owner, as part of the concurrent 2009 Biennial Decommissioning Review process, which describes how and when it intends to make adjustments to financial assurance mechanisms such that any shortfalls in decommissioning funding assurance for DAEC are covered.

On page 2 of the decommissioning funding plan submitted, FPL Energy DA stated:

> *In order to address the funding difference for DAEC, FPL Energy will cause FPL Group Capital Inc. to amend the existing decommissioning funding parent (company) guaranty for $93 million to increase the value of that parent (company) guaranty to $132.5 million, [which is based on a] present value of NRC Minimum Calculation pursuant to 10 CFR 50.75.*

10 CFR 50.75 (b)(1) states:

> *(b) Each power reactor applicant for or holder of an operating license, and each applicant for a combined license under subpart C of 10 CFR part 52 for a production or utilization facility of the type and power level specified in paragraph (c) of this section shall submit a decommissioning report, as required by section 50.33(k).*
>
> *(1) For an applicant for or holder of an operating license under part 50, the report must contain a certification that financial assurance for decommissioning will be (for a license applicant), or has been (for a license holder), provided in an amount <u>which may be more, but not less, than the amount stated in the table in paragraph (c)(1) of this section adjusted using a rate at least equal to that stated in paragraph (c)(2) of this section.</u> (Emphasis added.)*

Question 1

On Enclosure 4 of the July 27, 2009, submittal, CIPCO stated that a Real Rate of Return of four percent is assumed. Please provide the necessary evidence that allows CIPCO to use an assumed Real Rate of Return of four percent by the appropriate regulatory authority.

Central Iowa Power Cooperative's Response to RAI 1:

CIPCO is a public corporation incorporated under Chapter 499 Iowa Code (2009). CIPCO has the authority and is required to fix, establish, and collect adequate rates and other charges for electrical energy or services sold or furnished by it. CIPCO is accordingly authorized to establish its own rates and other charges through which it can recover its cost of service. CIPCO is governed by a 13 member Board of Directors that are elected by the CIPCO members. The Board of Directors is the rate making authority for CIPCO. CIPCO rates are not regulated by any state or federal authority. In a Board Resolution dated October 27, 2009, the CIPCO Board of Directors resolved that the rates and other charges for electrical energy services and the decommissioning fund be established assuming a real rate of return on the decommissioning fund of four percent.

Question 2

Please provide a status of the remaining 10 percent owner of DAEC.

Corn Belt Power Cooperative's Response to RAI 2:

Corn Belt Power Cooperative is a public corporation incorporated under Chapter 499 Iowa Code (2009). The Cooperative has the authority and is required to fix, establish, and collect adequate rates and other charges for electrical energy or services sold or furnished by it. Corn Belt is governed by an 11 member Board of Directors who are elected by its members. The Corn Belt Board of Directors is accordingly authorized to establish its own rates and other charges through which it can recover its cost of service and is the rate making authority for the Cooperative. The Cooperative's rates are not regulated by any state or federal authority.

In a Board Resolution dated October 30, 2009, the Corn Belt Board of Directors resolved that the rates and other charges for electrical energy services and the decommissioning fund be established assuming a real rate of return on the decommissioning fund of three percent.

An updated accounting of Corn Belt's trust balance and planned future contributions is provided in the response to RAI 3.

Question 3

NRC recognizes that if approximately $132.5 million were deposited in cash into the prepaid account, the increased balance would provide adequate financial assurance, as of June 30, 2009. The reason is that actual funds in a prepaid account can generate earnings.

However, FPL's plan to provide a PCG in the amount of $132.5 million does not meet the requirements of section 50.75(e)(1)(i). The PCG is a promise by the parent company to pay the decommissioning obligations of the licensee in the event the licensee fails to pay for decommissioning costs. By its nature, the PCG has no funds from which earnings can be *decommissioning costs. By its nature, the PCG has no funds from which earnings can be generated. Your plan would generate earnings only on the actual balance in the account. The sum of the $165.7 million trust fund balance plus earnings on the balance plus a $132.5 million PCG would not cover the minimum NRC requirement of section 50.75(c), as of July 31, 2009.*

In view of the above, provide a revised plan to cover the projected shortfall using a method that conforms to one of the methods provided in section 50.75.

<u>NextEra's Response to RAI 3</u>:

NextEra does not concede that the NRC's position regarding the use of the present value of the NRC formula minimum amount is correct. However, NextEra presents the following revised plan for demonstrating funding assurance that does not involve a present value calculation and instead relies upon its preliminary site-specific estimate of the cost to decommission the Duane Arnold Energy Center (DAEC) using the SAFSTOR method, which complies with 10 CFR 50.75. NextEra has not made a final determination of the actual decommissioning approach for DAEC, but the SAFSTOR option has been selected for the purpose of demonstrating the adequacy of DAEC's decommissioning funding. NextEra may choose a different decommissioning option in the future, recognizing that the chosen option must meet NRC requirements for decommissioning funding. Specifically, renewal of the DAEC operating license may lead NextEra to change its planned decommissioning methods for funding assurance purposes. NextEra filed a license renewal application for DAEC on September 30, 2008.

Pursuant to 10 CFR 50.75(e)(1)(i), "A licensee that has prepaid funds based on a site specific estimate under § 50.75(b)(1) of this section may take credit for projected earnings on the prepaid decommissioning trust funds, using up to a 2 percent annual real rate of return from the time of future funds' collection through the projected decommissioning period, provided that the site-specific estimate is based on a period of safe storage that is specifically described in the estimate." Thus, a site-specific cost estimate may be used for demonstrating decommissioning funding assurance, provided that "the NRC-required cost estimate for decommissioning costs as defined in 10 CFR 50.2 is equal to or greater than the amount stated in the formulas in 10 CFR 50.75(c)(1) and (2)." (Regulatory Guide 1.159, section 1.1.1; Draft Regulatory Guide-1229, section 1.1.1.)

On February 19, 2009, NextEra submitted a site-specific decommissioning cost estimate to the NRC as part of its preliminary decommissioning cost estimate and spent fuel management plan filing required by 10 CFR 50.75(f)(3) and 10 CFR 50.54(bb) (Accession Nos. ML090550968 and ML090570189). Scenario 2 of the DAEC site-specific estimate considers the costs to decommission the facility assuming (1) no renewal of the facility operating license, and (2) the use of a SAFSTOR period. NextEra's revised plan for demonstrating decommissioning funding assurance is based upon this scenario - a period of safe storage until 2068, at which time decommissioning activities will commence.

Appendix E to the DAEC site-specific estimate (pages 164-65 of 190) provides the annual license termination costs for this scenario in 2008 dollars. Section 1.4.3 of Regulatory Guide 1.159 (and Draft Regulatory Guide-1229) states that site specific cost estimates should be adjusted at least once a year to reflect the impact of inflation. Section 1.4.1 states that licensees may use standard measures of price indexing, such as the annual Consumer Price Index (CPI) published by the Bureau of Labor Statistics to adjust site-specific cost estimates. The CPI Detailed Report for September 2009 shows negative growth in the CPI over the previous 12-month period. For this analysis, NextEra did not adjust the cost estimate downward to reflect the deflation experienced over the past year. Instead, the cost estimate provided below conservatively retains the use of 2008 dollars.

The decommissioning trust funds for DAEC have increased since December 31, 2008. As of September 30, 2009, the total decommissioning trust fund balance including the shares of all three joint owners is approximately $232,709,000, compared to the December 31, 2008 balance of $203,073,403. Table 1 utilizes the September 30, 2009 DAEC decommissioning trust fund balance in lieu of the December 31, 2008 balance. In Table 1, the decommissioning trust fund ending balance is escalated each year by the 2% real rate of return allowed pursuant to 10 CFR 50.75(e)(1)(i) for NextEra's share, and by the 3% and 4% real rate of return authorized by Corn Belt's and CIPCO's rate-setting authorities, respectively, as allowed under 10 CFR 50.75(e)(i) and discussed in the answers to RAIs 1 and 2 above. After the annual escalation, the estimated annual costs are subtracted from the annual total decommissioning fund balance and the planned contributions of CIPCO and Corn Belt are added. Table 1 includes only license termination costs and does not include spent fuel management or non-radiological greenfield costs.

As can be seen from the information provided in Table 1, the required funding for a SAFSTOR decommissioning, approximately $579 million, is greater than the current (September 30, 2009) NRC formula amount per 10 CFR 50.75(b) and (c) of $507,291,842, and therefore, the site-specific analysis complies with the NRC's position outlined in Regulatory Guide 1.159 section 1.1.1 that a site-specific cost estimate may only be used if it is equal to or greater than the NRC formula amount.

This SAFSTOR analysis demonstrates that when the September 30, 2009 decommissioning trust fund balance is escalated at the allowable rates and compared against the annual figures for the SAFSTOR period studied in the DAEC preliminary decommissioning cost estimate, a significant surplus would remain at the end of the decommissioning project. Accordingly, NextEra concludes that no further action is required at this time to demonstrate adequate funding assurance for decommissioning DAEC.

As reflected in the March 27, 2009 Biennial Funding Status Report and the July 27, 2009 Decommissioning Funding Status Report and Financial Assurance Plan, NextEra currently has a $93 million parent guaranty providing partial decommissioning funding assurance. Using the SAFSTOR approach, NextEra's parent guaranty would no longer be required. Through this filing, NextEra is seeking NRC approval of its SAFSTOR decommissioning funding assurance mechanism and will maintain its parent guaranty in place pending NRC approval. Following NRC approval, and in accordance with its terms, NextEra's parent guaranty will remain in place until 120 days after NextEra or FPL Group Capital, Inc. provides notice to the NRC of its cancellation.

TABLE 1
Duane Arnold Energy Center Decommissioning Funding Plan
Scenario 2: 2014 Shutdown, SAFSTOR Alternative
(Thousands of Dollars)

Basis Year 2008
Fund Balance as of 9/30/09: (Thousands of Dollars)

Next Era	184,620	70% ownership
CIPCO	31,985	20% ownership
Corn Belt	16,104	10% ownership
Total Trust Fund Balance	232,709	

Annual Escalation	0%
Annual Earnings - Next Era	2%
Annual Earnings - CIPCO	4%
Annual Earnings - Corn Belt	3%

A	B	C	D	E	F	G
Year	50.75 Cost	Total Cost Escalated at 0%	Next Era Decommissioning Trust Fund Balance escalated at 2% minus 70% of expenses	CIPCO Decommissioning Trust Fund Balance escalated at 4% minus 20% of expenses + Contributions	Corn Belt Decommissioning Trust Fund Balance escalated at 3% minus 10% of expenses + Contributions	Total Decommisioning Trust Fund minus expenses
2009	-	-	184,620	32,485	16,604	233,709
2010	-	-	188,312	34,784	17,602	240,699
2011	-	-	192,079	37,176	18,880	248,135
2012	7,908	7,908	190,385	38,081	19,656	248,122
2013	9,100	9,100	187,822	38,784	20,585	247,192
2014	42,672	42,672	161,708	32,801	18,436	212,946
2015	1,789	1,789	163,690	33,756	18,810	216,256
2016	1,789	1,789	165,712	34,748	19,195	219,655
2017	1,789	1,789	167,774	35,780	19,592	223,146
2018	1,789	1,789	169,877	36,854	20,001	226,732
2019	13,308	13,308	163,959	35,666	19,270	218,895
2020	3,794	3,794	164,582	36,334	19,469	220,385
2021	3,794	3,794	165,218	37,029	19,674	221,920
2022	3,794	3,794	165,867	37,751	19,885	223,502
2023	3,794	3,794	166,528	38,502	20,102	225,132
2024	3,794	3,794	167,203	39,283	20,325	226,812
2025	2,036	2,036	169,122	40,448	20,732	230,301
2026	1,448	1,448	171,491	41,776	21,209	234,475
2027	1,448	1,448	173,907	43,157	21,700	238,764
2028	1,448	1,448	176,371	44,594	22,206	243,172
2029	1,448	1,448	178,885	46,088	22,728	247,701
2030	1,448	1,448	181,449	47,642	23,265	252,356
2031	1,448	1,448	184,065	49,258	23,818	257,141
2032	1,448	1,448	186,732	50,939	24,388	262,059
2033	1,448	1,448	189,453	52,687	24,975	267,115
2034	1,448	1,448	192,229	54,505	25,579	272,313
2035	1,448	1,448	195,060	56,395	26,202	277,657

H	I
CIPCO Decommissioning Trust Fund Contirbutions	Corn Belt Decommissioning Trust Fund Contirbutions
500	500
1,000	500
1,000	750
1,000	1,000
1,000	1,250
1,000	1,500

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Year	50.75 Cost	Total Cost Escalated at 0%	Next Era Decommissioning Trust Fund Balance escalated at 2% minus 70% of expenses	CIPCO Decommissioning Trust Fund Balance escalated at 4% minus 20% of expenses + Contributions	Corn Belt Decommissioning Trust Fund Balance escalated at 3% minus 10% of expenses + Contributions	Total Decommisioning Trust Fund minus expenses	CIPCO Decommissioning Trust Fund Contirbutions	Corn Belt Decommissioning Trust Fund Contirbutions
2036	1,448	1,448	197,947	58,362	26,843	283,152		
2037	1,448	1,448	200,893	60,406	27,503	288,803		
2038	1,448	1,448	203,897	62,533	28,184	294,614		
2039	1,448	1,448	206,961	64,745	28,884	300,591		
2040	1,448	1,448	210,087	67,045	29,606	306,738		
2041	1,448	1,448	213,275	69,437	30,349	313,062		
2042	1,448	1,448	216,527	71,925	31,115	319,567		
2043	1,448	1,448	219,844	74,513	31,904	326,260		
2044	1,448	1,448	223,227	77,203	32,716	333,147		
2045	1,448	1,448	226,678	80,002	33,553	340,233		
2046	1,448	1,448	230,198	82,912	34,415	347,525		
2047	1,448	1,448	233,788	85,939	35,302	355,030		
2048	1,448	1,448	237,451	89,087	36,216	362,754		
2049	1,448	1,448	241,186	92,361	37,158	370,705		
2050	1,448	1,448	244,996	95,766	38,128	378,890		
2051	1,448	1,448	248,882	99,307	39,127	387,317		
2052	1,448	1,448	252,847	102,990	40,156	395,993		
2053	1,448	1,448	256,890	106,820	41,216	404,926		
2054	2,184	2,184	260,499	110,656	42,234	413,389		
2055	2,303	2,303	264,097	114,621	43,271	421,989		
2056	2,303	2,303	267,767	118,746	44,339	430,851		
2057	2,303	2,303	271,510	123,035	45,439	439,983		
2058	2,303	2,303	275,328	127,496	46,571	449,395		
2059	2,303	2,303	279,222	132,135	47,738	459,096		
2060	2,303	2,303	283,195	136,960	48,940	469,095		
2061	2,303	2,303	287,247	141,978	50,178	479,402		
2062	2,303	2,303	291,379	147,196	51,453	490,028		

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2063	2,303	2,303	295,595	152,623	52,766	500,984
2064	2,303	2,303	299,895	158,268	54,119	512,281
2065	2,303	2,303	304,280	164,138	55,512	523,930
2066	9,354	9,354	303,818	168,832	56,242	528,893
2067	14,366	14,366	299,838	172,712	56,493	529,044
2068	63,862	63,862	261,132	166,849	51,802	479,782
2069	79,225	79,225	210,897	157,678	45,433	414,008
2070	96,091	96,091	147,851	144,766	37,187	329,805
2071	80,953	80,953	94,141	134,366	30,207	258,715
2072	47,681	47,681	62,647	130,205	26,345	219,198
2073	18,654	18,654	50,842	131,682	25,270	207,795
Total	579,397	579,397				

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CIPCO Decommissioning Trust Fund Contirbutions	Corn Belt Decommissioning Trust Fund Contirbutions

Calculations:

Column D = (Column D (Previous year's fund balance)* (1+.02)) - (Column C* 0.70) (70% of current year's decommissioning expenditures)
Column E = (Column E (Previous year's fund balance)* (1+.04)) - (Column C* 0.20) (20% of current year's decommissioning expenditures) + Column H (current year's contributions)
Column F = (Column F (Previous year's fund balance)* (1+.03)) - (Column C* 0.10) (10% of current year's decommissioning expenditures) + Column I (current year's contributions)
Column G = Column D + Column E + Column F