NEXTera ENERGY POINT BEACH

NRC 2010-0076

May 26, 2010

10 CFR 2.202
EA-06-178

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

Point Beach Nuclear Plant, Units 1 and 2
Dockets No. 50-266 and 50-301
Renewed License Nos. DPR-24 and DPR-27

Response to Confirmatory Order EA-06-178

On January 3, 2007, the NRC issued Confirmatory Order EA-06-178 (the "Confirmatory Order) (ML063630336 and ML063540433) to Nuclear Management Company, LLC (NMC), the former holder of the Facility Operating Licenses for Point Beach Nuclear Plant (PBNP) Units 1 and 2.

The Confirmatory Order was issued as part of a settlement agreement between NMC and the NRC regarding an Apparent Violation of 10 CFR 50.7, "Employee protection," issued by the NRC to NMC on August 22, 2006 (ML070100138). Section IV of the Confirmatory Order modified the PBNP Facility Operating Licenses to specify, in part, that "In the event of the transfer of the operating license of any NMC operated facility to another entity, the commitments [contained within the Confirmatory Order] shall survive for the NMC fleet generally and PBNP specifically."

On September 28, 2007, PBNP Facility Operating Licenses were transferred to FPL Energy Point Beach, LLC (now NextEra Energy Point Beach, LLC, "NextEra") by Amendment Nos. 228 and 233, respectively (ML071560037). Accordingly, NextEra has assumed the responsibilities and obligations of the Confirmatory Order pertaining to PBNP.

Section III of the Confirmatory Order requires NextEra to provide the NRC a letter summarizing actions taken to comply with the Confirmatory Order once all of the Section IV requirements have been completed. NextEra hereby notifies NRC that all of the requirements contained in Section IV of the Confirmatory Order have been completed and has provided the required summary of actions taken to ensure compliance with the Confirmatory Order in the enclosure hereto.

This response is limited to the actions taken by NextEra Energy Point Beach, LLC. The licensees of the remaining plants affected by the Order are responsible for submitting individual responses to Section IV requirements of the Order.

NRC has previously notified NextEra that the staff has completed its inspections of NextEra's compliance with Section IV of the Order. The inspections were documented in NRC inspection reports dated August 8, 2007 (ML072211010), August 11, 2008 (ML082210495), and February 10, 2010 (ML100410106). The Apparent Violation, which was the subject of the Confirmatory Order was closed by letter dated February 10, 2010.

As the submission of the enclosed summary of actions taken completes NextEra's obligations and responsibilities under the Confirmatory Order, NextEra respectfully requests that the Confirmatory Order be removed from the Facility Operating Licenses for PBNP Units 1 and 2.

If there are questions or further information is required, please contact James Costedio, Licensing Manager, at 920/755-7427.

Summary of Regulatory Commitments

There are no new commitments or revisions to existing Regulatory Commitments contained in this letter.

Very truly yours,

NextEra Energy Point Beach, LLC

Larry Meyer
Site Vice President

Enclosure

cc: Administrator, Region III, USNRC
Director, Office of Enforcement, USNRC
Project Manager, Point Beach Nuclear Plant, USNRC
Resident Inspector, Point Beach Nuclear Plant, USNRC
PSCW

ENCLOSURE

NEXTERA ENERGY POINT BEACH, LLC
POINT BEACH NUCLEAR PLANT, UNITS 1 AND 2

RESPONSE TO CONFIRMATORY ORDER EA-06-178

Background

On January 3, 2007, the NRC issued Confirmatory Order EA-06-178 (ML063630336 and ML063540433) (Reference 2) to Nuclear Management Company, LLC (NMC). NMC was the former license holder for Point Beach Nuclear Plant (PBNP) Units 1 and 2 prior to transfer of the Facility Operating Licenses to FPL Energy Point Beach, LLC (now NextEra Energy Point Beach, LLC; NextEra) on September 28, 2007 (ML071560037), via Amendment Nos. 228 and 233, respectively.

The Confirmatory Order was issued as part of a settlement agreement between NMC and the NRC regarding an Apparent Violation of 10 CFR 50.7, "Employee protection," issued by the NRC to NMC on August 22, 2006 (Reference 1).

Section III of Confirmatory Order EA-06-178 requires that a letter be submitted to the NRC by NextEra summarizing actions taken when all of the Section IV requirements have been completed. All of the requirements contained in Section IV of the Order have been completed by NextEra. Accordingly, NextEra requests the rescission of the Order for PBNP, Units 1 and 2.

Summary of Completion of Section IV Requirements

1. *By no later than nine (9) months after the issuance of this Confirmatory Order, NMC shall review, revise, and communicate to NMC employees and managers its policy relating to the writing of corrective action program (CAP) reports, and provide training to NMC employees and managers to clarify management's expectation regarding the use of the program with the goal to ensure employees are not discouraged, retaliated against, or perceived to be retaliated against, for using the CAP.*

   NextEra Summary of Actions. NMC revised Corporate Directive 3.3, "Performance Assessment Program," on March 8, 2007, to provide more explicit expectations on how to write corrective action process requests. The corresponding fleet corrective action procedure, FP-PA-ARP-01, was revised on February 26, 2007, to include specific expectations on what should be included, and what should be avoided in an action request description. Training for PBNP employees that clarified management's expectation for action request writing was completed by June 29, 2007. Additional training for managers and supervisors at PBNP was completed by July 27, 2007. This requirement was confirmed as being complete by the Commission as documented in References 5 and 11.

2. *By no later than June 30, 2007, NMC shall communicate its safety culture policy (including safety conscious work environment (SCWE)) to NMC employees, providing employees with the opportunity to ask questions in a live forum.*

   NextEra Summary of Actions: Safety culture meetings held at PBNP were completed by May 25, 2007, with the exception of a few individuals who were on medical leave at the time the meetings were conducted. The plant access badges for these individuals were placed on administrative hold to require that the individuals complete an information sharing module prior to reactivation of their plant access badges. These employees subsequently completed the information sharing. This requirement was verified as being complete by the Commission as documented in References 5 and 11.

3. *By no later than nine (9) months after the issuance of this Confirmatory Order, NMC shall train its employees holding supervisory positions and higher who have not had formal training on SCWE principles within the previous two years of the confirmatory order. NMC agrees to use a qualified training instructor (internal or external) for such training.*

   NMC shall review and enhance, if necessary, its refresher SCWE training consistent with NMC's refresher training program and provide such refresher training to its employees. New employees holding supervisory positions and higher shall be trained on SCWE principles within nine (9) months of their hire dates unless within the previous two years of their hire dates, they've had the same or equivalent SCWE training.

   NextEra Summary of Actions: Training for PBNP managers and supervisors who had not received formal training on SCWE principles within the previous two years was completed by July 24, 2007. The training was presented by a qualified external instructor.

   SCWE refresher training materials were revised by May 31, 2007. During June 2008, an inspection (Reference 5) was conducted of SCWE training administered to PBNP supervisors. A non-cited violation (NCV) of very low safety significance was identified. Four employees holding supervisory positions for greater than nine months of their hire dates as supervisors had not received SCWE training or equivalent training during the previous two years. Three of the four individuals were employees who had formerly been supervisors and had received the training, but had subsequently been enrolled in the initial operator license training program. Following receipt of the Senior Operator Licenses, they again were assigned as supervisors. The fourth individual did not attend the required training as scheduled.

   The issues surrounding the NCV were entered into the corrective action program and an apparent cause evaluation was performed. Corrective actions to prevent recurrence that were taken included immediately providing the required SCWE training to the affected individuals in order to restore compliance with the Order. This action was completed by June 14, 2008. In addition, the following programmatic actions were taken: a) Guidance was revised to require scheduling of SCWE training for a newly hired supervisor within 90 days of hire date. b) Prompts were established in the Learning Management System, which is used to schedule and track qualifications, to ensure initial and continuing SCWE training is provided at the specified frequency. c) Initial licensed operator training program documents were revised to ensure that all future Operations supervisors receive the training in a timely manner upon completion of the licensing process. These corrective actions were previously docketed via FPL Energy Point Beach, LLC letter to the NRC dated November 11, 2008 (Reference 8).

   As documented in Reference 11, during December 2009, the Commission reviewed the corrective actions to prevent recurrence of this condition and determined that no additional

supervisors had missed the required training. Accordingly, this requirement was verified as being complete via Reference 11.

4. *By no later than March 30, 2007, NMC shall develop action plans to address significant issues identified as needing management attention in the NMC 2004 and 2006 Comprehensive Cultural Assessments at PBNP; to conduct focus group interviews with Priority 1 & 2 organizations to understand the cause of the survey results; and to review and, as appropriate, reflect nuclear industry best practices in its conduct of focus groups and action plans to address the issues at PBNP.*

   As part of the development of the action plans, NMC shall also assess and address any legacy issues identified in prior safety culture assessments (i.e. CAP report AR00510074 and Synergy Safety Culture Assessment) that impact the safety culture at PBNP.

   The executive summary, analysis, and contemplated action plans shall also be submitted to the NRC.

   NextEra Summary of Actions: Nuclear Management Company, LLC letter dated March 29, 2007 (Reference 3), submitted the executive summary, analysis and contemplated action plans to address significant issues needing management attention in the NMC 2004 and 2006 Comprehensive Cultural Assessments required by this Order requirement.

   As part of the 2Q08 integrated inspection effort, the NRC reviewed the status of action plans developed and submitted to address safety culture issues at PBNP. The results of this inspection identified a finding of very low safety significance in that timely and effective corrective actions had not been taken to address four of the nine action plans and nine of the "quick hitter" plans.

   NextEra immediately took corrective measures to resolve this inspection finding. The status of the corrective measures was discussed with NRC Region III management at a public meeting held on September 24, 2008, at the Region III offices (Reference 6) and further communicated to the Commission via letter dated November 11, 2008 (Reference 8). During a public meeting held with NRC Region III on April 29, 2009 (Reference 10), all actions were communicated as being complete with the exception of an effectiveness review. The effectiveness review was completed on April 29, 2009. During the inspection conducted in 4Q09 (Reference 11), several long-term action plans were reviewed by the NRC. The Commission concluded this action was complete.

   During the same inspection, the Commission concluded that the safety culture environment at PBNP has shown some improvement and that further monitoring by the plant Nuclear Safety Culture Improvement Team (NSCIT) and continuing actions from safety culture surveys would be needed to continue this trend. The report also stated that improvements in the site's safety culture had occurred between the time of the June 2008 culture survey and an FPL engagement survey that had been conducted later in 2008. Additionally, it was noted further actions are being taken following an independent assessment that was conducted in spring of 2009. This Order requirement was documented as being complete in the inspection report (Reference 11).

5. *By no later than December 31, 2008, NMC shall perform another survey at PBNP comparable to the 2004 and 2006 surveys to assess trends of the safety culture at the site and the overall effectiveness of corrective actions taken in response to prior year assessments (i.e. CAP report AR00510074 and 2006 Synergy survey).*

   NextEra summary of Actions: A safety culture survey was performed at PBNP during June 2008. The results of the 2008 Nuclear Safety Culture Assessment (NSCA) were transmitted to NextEra on September 19, 2008. The preliminary results were discussed with the NRC during a public meeting held on September 24, 2008 (Reference 6) and further communicated to the Commission via a letter dated November 11, 2008 (Reference 8). This Requirement was reviewed during the inspection conducted during 4Q09 (Reference 11), The Commission concluded that the safety culture environment has shown some improvement and further monitoring by the NSCIT and continuing actions from the safety culture surveys and independent assessment team recommendations would be needed to continue this trend. Notwithstanding the fact that continuous improvement is essential to maintaining a healthy SCWE, NextEra respectfully submits that this one-time Order Requirement has been met. The NRC 4Q09 inspection report (Reference 11) documents this Requirement as being complete.

6. *By no later than 3 months after the receipt of the next cultural survey results at PBNP, NMC shall submit the executive summary, analysis of the results, and the contemplated corrective actions to the NRC.*

   NextEra Summary of Actions: FPL Energy Point Beach, LLC letter dated December 22, 2008 (Reference 9), submitted the results of the 2008 safety culture survey performed at Point Beach during June 2008. The NRC 4Q09 inspection report (Reference 11) verified the submittals were made in the timeframe contained in the Order. The inspection report documents this Requirement as being complete.

7. *NMC shall continue to implement a process which ensures that adverse employment actions are in compliance with NRC employee protection regulations and principles of SCWE.*

   NextEra Summary of Actions: NMC issued policy CP 0087, "Material Employment Action Review," on July 2, 2007. This policy outlined the actions to be implemented for review of pending adverse employment actions. Following transfer of the Facility Operating License from NMC to FPL Energy Point Beach, LLC, policy NP-413 was revised and issued on May 15, 2008. This policy replaced NMC policy CP 0087. In response to an NRC inspection observation contained in the 4Q09 inspection report (Reference 11), the inspectors noted that policy NP-413 might not be as detailed as the NMC policy. NextEra replaced policy NP-413 with new policy HR-AA-01, "Involuntary Termination or Other Significant Employment Actions Affecting Nuclear Division Employees." This new policy was placed into effect on January 8, 2010. The inspectors subsequently reviewed the policy and concluded that Order Requirement 7 was complete (Reference 11).

8. *In the event of the transfer of the operating license of any NMC operated facility to another entity, the commitments shall survive for the NMC fleet generally and PBNP specifically.*

   NextEra Summary of Actions: The commitments contained in the Confirmatory Order have survived the NMC fleet. This conclusion has been confirmed by the Commission during inspection of the facility and documented in inspection reports dated August 11, 2008 (Reference 5) and February 10, 2010 (Reference 11). This Requirement was verified as being complete in the February 10, 2010, inspection report.

9. *Any reference to NMC employees includes all NMC employees fleet wide. The Director, Office of Enforcement, may relax or rescind, in writing, any of the above conditions upon a showing by the Licensee of good cause.*

   NextEra Summary of Actions: No specific action is required by this Order Requirement. During the period of time that NMC was the license holder for PBNP, the reference to NMC employees included all personnel assigned to the NMC sites and in the corporate offices, including contractors. Following transfer of the Facility Operating Licenses to FPL Energy Point Beach, LLC, this requirement was interpreted to include all personnel assigned to the PBNP site, including contractors.

   Based upon the actions taken by NextEra to address each Order Requirement and verification by the Commission that the actions taken are complete, NextEra believes good cause has been shown for the Director, Office of Enforcement to rescind this Order.

References

1. NRC Letter to Nuclear Management Company, LLC dated August 22, 2006, Apparent Violation of Employee Protection Requirements (Office of Investigations Report No. 3-2005-010) (ML070100138)

2. NRC Letter to Nuclear Management Company, LLC dated January 3, 2007, Confirmatory Order (Effective Immediately) (Office of Investigation Report No. 3-2005-010) EA-06-178 (ML063630336 and ML063540433)

3. Nuclear Management Company, LLC Letter to NRC dated March 29, 2007, Nuclear Management Company, LLC Plan to Address the Safety Culture Issues at Point Beach Nuclear Plant (ML070890434)

4. NRC Letter to Nuclear Management Company, LLC, dated August 8, 2007, Point Beach Nuclear Plant, Units 1 and 2, NRC Integrated Inspection Report 05000266/2007003 & 05000301/2007003 (ML072211010)

5. NRC Letter to FPL Energy Point Beach, LLC dated August 11, 2008, Point Beach Nuclear Plant, Units 1 and 2, NRC Integrated Inspection Report 05000266/2008003 and 05000301/2008003 (ML082210495)

6. FPL Energy Point Beach, LLC, Meeting Slides dated September 24, 2008, Public Meeting Held with NRC Region III (ML082681941)

7. NRC Letter to FPL Energy Point Beach, LLC dated October 7, 2008, Summary of the September 24, 2008, Public Meeting to Discuss Cross-Cutting Issues and Recent Culture Survey (ML082810126)

8. FPL Energy Point Beach, LLC Letter to NRC dated November 11, 2008, Status of Action Plans Taken in Response to Confirmatory Order EA-06-178 (ML083170356)

9. FPL Energy Point Beach, LLC Letter to NRC dated December 22, 2008, Confirmatory Order EA-06-178, Section IV.6, 2008 Nuclear Safety Culture Survey Results (ML083660387)

10. NextEra Energy Point Beach, LLC, Meeting Slides dated April 29, 2009, Public Meeting Held with NRC Region III (ML091200721)

11. NRC Letter to NextEra Energy Point Beach, LLC dated February 10, 2010, Point Beach Nuclear Plant, Units 1 and 2, NRC Integrated Inspection Report 05000266/2009005; 05000301/2009005 and Status of Confirmatory Order EA-06-178 (ML100410106)