



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

November 15, 2010

Mr. Jon A. Franke, Vice President
Crystal River Nuclear Plant (NA1B)
ATTN: Supervisor, Licensing & Regulatory Programs
15760 W. Power Line Street
Crystal River, Florida 34428-6708

SUBJECT: CRYSTAL RIVER UNIT 3 NUCLEAR GENERATING PLANT – EXEMPTION
FROM PHYSICAL SECURITY REQUIREMENTS (TAC NO. ME4681)

Dear Mr. Franke:

The Nuclear Regulatory Commission (NRC) has approved the enclosed exemption from specific requirements of Title 10 of the *Code of Federal Regulations* (10 CFR), Part 73, for the Crystal River Unit 3 Nuclear Generating Plant. This action is in response to Florida Power Corporation (the licensee) application dated September 8, 2010, that requested a further extension of the deadline for the implementation of four specific security requirements. Pursuant to the NRC's final rule revising 10 CFR Part 73, dated March 27, 2009 (74 FR 13926), certain new security requirements were to be implemented by all licensees by March 31, 2010. However, by letter dated March 25, 2010, the NRC granted an exemption to the licensee for four specific items subject to the revised rule, allowing the implementation of two items to be deferred until November 15, 2010, and the implementation of the other two items until December 15, 2010. In its letter dated September 8, 2010, the licensee requested an exemption to allow further extensions to the implementation dates; until December 15, 2011 and March 31, 2012, respectively.

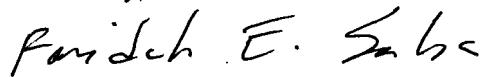
Portions of the September 8, 2010, submittal contain security-related information and, accordingly, a redacted version of this letter is available for public review in the Agencywide Documents Access and Management System, Accession No. ML102530129.

J. Franke

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A copy of the exemption is enclosed. The exemption has been forwarded to the Office of the Federal Register for publication.

Sincerely,



Farideh E. Saba, Senior Project Manager
Plant Licensing Branch II-2
Division of Operating Reactor Licensing
Office of Nuclear Reactor Regulation

Docket No. 50-302

Enclosure: Exemption

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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION
FLORIDA POWER CORPORATION, ET AL.
CRYSTAL RIVER UNIT 3 NUCLEAR GENERATING PLANT
DOCKET NO. 50-302
EXEMPTION

1.0 BACKGROUND

Florida Power Corporation (FPC, the licensee) is the holder of Facility Operating License No. DPR-72, which authorizes operation of the Crystal River Unit 3 Nuclear Generating Plant (CR-3). The license provides, among other things, that the facility is subject to all rules, regulations, and orders of the U.S. Nuclear Regulatory Commission (NRC, the Commission) now or hereafter in effect.

The facility consists of one pressurized-water reactor located in Citrus County, Florida.

2.0 REQUEST/ACTION

Title 10 of the *Code of Federal Regulations* (10 CFR) Part 73, "Physical protection of plants and materials," Section 73.55, "Requirements for physical protection of licensed activities in nuclear power reactors against radiological sabotage," published as a final rule in the *Federal Register* on March 27, 2009, effective May 26, 2009, with a full implementation date of March 31, 2010, requires licensees to protect, with high assurance, against radiological sabotage by designing and implementing comprehensive site security plans. The amendments to 10 CFR 73.55 published on March 27, 2009 (74 FR 13926), establish and update generically applicable security requirements similar to those previously imposed by Commission orders issued after the terrorist attacks of September 11, 2001, and implemented by licensees. In addition, the amendments to 10 CFR 73.55 include additional requirements to further enhance

site security based upon insights gained from implementation of the post-September 11, 2001, security orders.

By letter dated March 25, 2010 (ADAMS Accession No. ML100630530), the NRC granted an exemption to the licensee for four specific items subject to the revised rule in 10 CFR 73.55, allowing the implementation of two items to be extended until November 15, 2010, and the implementation of two other items until December 15, 2010. All other physical security requirements established by this rulemaking have been implemented by the licensee.

By letter dated September 8, 2010, the licensee requested an exemption in accordance with 10 CFR 73.5, "Specific exemptions." Portions of the licensee's September 8, 2010, letter contain security-related information and, accordingly, a redacted version of this letter is available for public review in the Agencywide Documents Access and Management System Accession (ADAMS) No. ML102530129. The licensee requested this exemption to allow an additional extension from the current implementation dates granted in the prior exemption for the four specific remaining requirements that involve significant physical upgrades to the CR-3 security systems. The licensee requested the previous exemption based on the conceptual design information available at that time. The licensee has further developed its design changes and has completed its discovery phase. Due to the unforeseen need for design changes and the associated analysis necessary to achieve full compliance with the Final Rule, additional time is needed to complete the complex revised design and construction. Specifically, the licensee's request is to extend the implementation dates from November 15 and December 15, 2010, to December 15, 2011 and March 15, 2012, respectively. Granting this exemption extending the implementation dates for the four remaining items would allow the licensee to perform necessary design changes and to complete significant physical modifications to the CR-3 security system including constructing a new two-story building to meet the Final Rule requirements.

3.0 DISCUSSION OF PART 73 SCHEDULE EXEMPTION FROM THE MARCH 31, 2010,

FULL IMPLEMENTATION DATE

Pursuant 10 CFR 73.55(a)(1), "By March 31, 2010, each nuclear power reactor licensee, licensed under 10 CFR Part 50, shall implement the requirements of this section through its Commission-approved Physical Security Plan, Training and Qualification Plan, Safeguards Contingency Plan, and Cyber Security Plan referred to collectively hereafter as 'security plans.'" In accordance with 10 CFR 73.5, the Commission may, upon application by any interested person or upon its own initiative, grant exemptions from the requirements of 10 CFR Part 73 when the exemptions are authorized by law, and will not endanger life or property or the common defense and security, and are otherwise in the public interest.

NRC approval of this exemption would allow an additional extension from the implementation dates approved under a previous exemption from November 15 and December 15, 2010 to December 15, 2011 and March 15, 2012, respectively, for four specific remaining requirements of the final rule. As stated above, 10 CFR 73.5 allows the NRC to grant exemptions from the requirements of 10 CFR 73. The NRC staff has determined that granting of the licensee's proposed exemption would not result in a violation of the Atomic Energy Act of 1954, as amended, or the Commission's regulations. Therefore, the exemption is authorized by law.

In the draft final rule provided to the Commission, the NRC staff proposed that the requirements of the new regulation be met within 180 days. The Commission directed a change from 180 days to approximately 1 year for licensees to fully implement the new requirements. This change was incorporated into the final rule. From this, it is clear that the Commission wanted to provide a reasonable timeframe for licensees to reach full compliance.

As noted in the final rule, the Commission also anticipated that licensees would have to conduct site-specific analyses to determine what changes were necessary to implement the

rule's requirements, and that changes could be accomplished through a variety of licensing mechanisms, including exemptions. Since issuance of the final rule, the Commission has rejected a request to generically extend the rule's compliance date for all operating nuclear power plants, but noted that the Commission's regulations provide mechanisms for individual licensees, with good cause, to apply for relief from the compliance date (Reference: June 4, 2009, letter from R. W. Borchardt, NRC, to M. S. Fertel, Nuclear Energy Institute (ADAMS Accession No. ML091410309)). The licensee's request for an exemption is, therefore, consistent with the approach set forth by the Commission and discussed in the June 4, 2009, letter.

Crystal River Schedule Exemption Request

The licensee provided detailed information in its letter dated September 8, 2010, describing the reason and justification for an exemption to extend the implementation dates for the four remaining requirements. Additionally, the licensee has provided information regarding the expanded scope for projects at CR-3 and the impacts on the licensee's ability to meet the current implementation dates of November 15, and December 15, 2010. The licensee changed the scope significantly to ensure that its new plans will meet regulatory requirements. Because of the change, the licensee could not meet the implementation dates granted by the previous exemption. The licensee is now constructing a new two-story building to meet these requirements and this excavation and construction expands the project to well beyond the implementation dates in the previously granted exemption, thus prompting this exemption request. Portions of the September 8, 2010, letter contain security-related information regarding the site security plan, details of specific portions of the regulation from which the licensee seeks exemption, justification for the additional extension request, a description of the required changes to the site's security configuration, and a revised timeline with critical path activities that would enable the licensee to achieve full compliance by March 15, 2012. The timeline

provides dates indicating when (1) design activities will be completed and approved, (2) construction of a new two-story building will be completed, and (3) the new and relocated equipment will be installed and tested.

The site-specific information provided within the CR-3 exemption request is relative to the requirements from which the licensee requested exemption and demonstrates the need for modification to meet the four specific remaining requirements of 10 CFR 73.55. The proposed implementation schedule depicts the critical activity milestones of the security system upgrades; is consistent with the licensee's solution for meeting the requirements; is consistent with the scope of the modifications and the issues and challenges identified; and is consistent with the licensee's requested compliance date.

Notwithstanding the proposed schedule exemption for these four remaining requirements, the licensee will continue to be in compliance with all other applicable physical security requirements as described in 10 CFR 73.55 and reflected in its current NRC-approved physical security program. By March 15, 2012, CR-3 physical security system will be in full compliance with all of the regulatory requirements of 10 CFR 73.55, as published on March 27, 2009.

4.0 CONCLUSION FOR PART 73 SCHEDULE EXEMPTION REQUEST

The NRC staff has reviewed the licensee's submittals and concludes that the licensee has provided adequate justification for its request for an extension of the previously authorized implementation dates from November 15 and December 15, 2010, with regard to four specified requirements of 10 CFR 73.55, to December 15, 2011, and March 15, 2012, respectively. This conclusion is based on the NRC staff's determination that the licensee has made a good faith effort to meet the requirements in a timely manner, has sufficiently described the reason for the unanticipated delays, and has provided an updated detailed schedule with adequate justification to the additional time requested for the extension.

The long-term benefits that will be realized when the security systems upgrade is complete justify extending the full compliance date with regard to the specific requirements of 10 CFR 73.55 for this particular licensee. The security measures that CR-3 needs additional time to implement are new requirements imposed by amendments to 10 CFR 73.55, as published on March 27, 2009, and are in addition to those required by the security orders issued in response to the events of September 11, 2001. Accordingly, an exemption from the March 31, 2010, implementation date is authorized by law and will not endanger life or property or the common defense and security, and the Commission hereby grants the requested exemption.

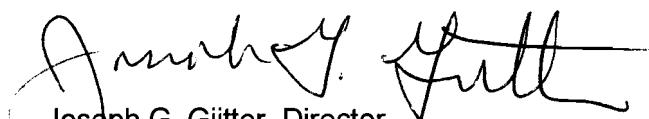
As per the licensee's request and the NRC's regulatory authority to grant an exemption to the March 31, 2010, implementation date for the four items specified in Attachment 1 of the FPC letter dated September 8, 2010, the licensee is required to implement two items by December 15, 2011, and to implement the remaining two items by March 15, 2012. The licensee is required to be in full compliance with 10 CFR 73.55 by March 15, 2012. In achieving compliance, the licensee is reminded that it is responsible for determining the appropriate licensing mechanism (i.e., 10 CFR 50.54(p) or 10 CFR 50.90) for incorporation of all necessary changes to its security plans.

In accordance with 10 CFR 51.32, "Finding of no significant impact," the Commission has previously determined that the granting of this exemption will not have a significant effect on the quality of the human environment (75 FR 69710 dated November 15, 2010).

This exemption is effective upon issuance.

Dated at Rockville, Maryland, this 15th day of November 2010.

FOR THE NUCLEAR REGULATORY COMMISSION



Joseph G. Giitter, Director
Division of Operating Reactor Licensing
Office of Nuclear Reactor Regulation

J. Franke

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Sincerely,

/RA/

Farideh E. Saba, Senior Project Manager
Plant Licensing Branch II-2
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Exemption: ML103130226

*SE dated

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OFFICE	OGC NLO	DORL/D	DORL/LPL2-2/PM	
NAME	AJones	JGlitter	FSaba	
DATE	11/10/2010	11/13/2010	11/15/10	

* By memo

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