

EDO Principal Correspondence Control

FROM: DUE: 06/17/11

EDO CONTROL: G20110367
DOC DT: 05/12/11
FINAL REPLY:

Thomas Saporito
Saprodani Associates

TO:

Borchardt, EDO

FOR SIGNATURE OF :

** GRN **

CRC NO:

Leeds, NRR

DESC:

ROUTING:

2.206 - Progress Energy, William D. Johnson and
H. B. Robinson Nuclear Plant
(EDATS: OEDO-2011-0359)

Borchardt
Weber
Virgilio
Ash
Muessle
OGC/GC
McCree, RII
Burns, OGC
Mensah, NRR
Scott, OGC
Bowman, OEDO

DATE: 05/19/11

ASSIGNED TO:

CONTACT:

NRR

Leeds

SPECIAL INSTRUCTIONS OR REMARKS:

This ticket is to address the April 17, 2011 2.206. The 2.206 for NextEra Energy, Florida Power & Light Company and St. Lucie Nuclear Plant Units 1 and 2 dated April 3, 2011, will be tasked as G20110365. OEDO does not have records for receiving the April 3 and 17, 2011, 2.206 requests prior to the May 12, 2011, letter.

Template: EDO-001

E-RIDS: EDO-01

EDATS

Electronic Document and Action Tracking System



EDATS Number: OEDO-2011-0359

Source: OEDO

General Information

Assigned To: NRR

OEDO Due Date: 6/17/2011 11:00 PM

Other Assignees:

SECY Due Date: NONE

Subject: 2.206 - Progress Energy, William D. Johnson and H. B. Robinson Nuclear Plant

Description:

CC Routing: RegionII; OGC; Tanya.Mensah@nrc.gov; Catherine.Scott@nrc.gov

ADAMS Accession Numbers - Incoming: NONE

Response/Package: NONE

Other Information

Cross Reference Number: G20110367

Staff Initiated: NO

Related Task:

Recurring Item: NO

File Routing: EDATS

Agency Lesson Learned: NO

OEDO Monthly Report Item: NO

Process Information

Action Type: 2.206 Review

Priority: Medium

Signature Level: NRR

Sensitivity: None

Urgency: NO

Approval Level: No Approval Required

OEDO Concurrence: NO

OCM Concurrence: NO

OCA Concurrence: NO

Special Instructions: This ticket is to address the April 17, 2011, 2.206. The 2.206 for NextEra Energy, Florida Power & Light Company and St. Lucie Nuclear Plant Units 1 and 2 dated April 3, 2011, will be tasked as G20110365. OEDO does not have records for receiving the April 3 and 17, 2011 2.206 requests prior to the May 12, 2011, letter.

Document Information

Originator Name: Thomas Saporito

Date of Incoming: 5/12/2011

Originating Organization: Saproani Associates

Document Received by OEDO Date: 5/18/2011

Addressee: R. W. Borchardt, EDO

Date Response Requested by Originator: NONE

Incoming Task Received: Letter

Saprodani Associates

May 12th, 2011

**SENT VIA CERTIFIED MAIL
(7009 3410 0000 0815 8165)**

Executive Director for Operations
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

In re: Petitions Filed Under 10 C.F.R. 2.206 Seeking Enforcement Action Against NRC Licensees NextEra Energy, Florida Power & Light Company, Progress Energy, William D. Johnson, H.B. Robinson Nuclear Plant, and the St. Lucie Nuclear Plant

Dear Executive Director:

On April 3rd, 2011, Saprodani Associates, by and through and with the undersigned, filed an enforcement petition under 10 C.F.R. §2.206 against U.S. Nuclear Regulatory Commission (NRC) licensees NextEra Energy, Florida Power & Light Company, and St. Lucie Nuclear Plant – Units 1 and 2.

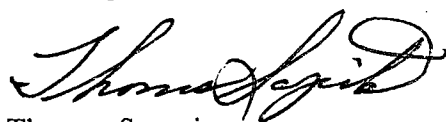
To date, the NRC has not taken any action on the petition as required under the agency's regulations (M.D. 8.11).

On April 17th, 2011, the aforementioned petitioners filed another enforcement petition under 10 C.F.R. §2.206 against NRC licensees Progress Energy, William D. Johnson, and H.B. Robinson Nuclear Plant.

To date, the NRC has not taken any action on the petition as required under the agency's regulations (M.D. 8.11).

Please provide a written response indicating what, if any, action the NRC has or will take with respect to the two identified petitions described immediately above.¹

Kind regards,



Thomas Saporito
Senior Consulting Associate

¹ A copy of the two petitions were previously sent via electronic mail to your attention - and are being provided again to you along with this letter.

**UNITED STATES NUCLEAR REGULATORY COMMISSION
BEFORE THE EXECUTIVE DIRECTOR FOR OPERATIONS**

In the Matter of:)
)
NEXTERA ENERGY,)
FLORIDA POWER & LIGHT)
COMPANY and)
St. Lucie Nuclear Plant,)
(Units 1 and 2))

Date: 03 APR 2011

**PETITION UNDER 10 C.F.R. §2.206 SEEKING ENFORCEMENT
ACTION AGAINST NEXTERA ENERGY, FLORIDA POWER AND
LIGHT COMPANY AND ST. LUCIE NUCLEAR PLANT UNITS 1 AND 2**

NOW COMES, Saprodani Associates, by and through and with, Thomas Saporito, Senior Consulting Associate (hereinafter "Petitioners") and submit a "*Petition Under 10 C.F.R. §2.206 Seeking Enforcement Action Against NEXTERA Energy, Florida Power & Light Company and the St. Lucie Point Nuclear Plant, Units 1 and 2*" (Petition). For the reasons stated below, the U.S. Nuclear Regulatory Commission (NRC) should grant the Petition as a matter of law:

NRC HAS JURISDICTION AND AUTHORITY TO GRANT PETITION

The NRC is the government agency charged by the United States Congress to protect public health and safety and the environment related to operation of commercial nuclear reactors in the United States of America (USA). Congress charged the NRC with this grave responsibility in creation of the agency through passing the Energy Reorganization Act of 1974, as amended, 42 U.S.C.A. §5851 (ERA). In the instant action, NEXTERA Energy, Florida Power & Light Company and the St. Lucie Nuclear Plant, Units 1 and 2, are collectively and singularly a "licensee" of the NRC and subject to NRC regulations and authority under 10 C.F.R. §50 and under other NRC regulations and authority in operation of the St. Lucie Nuclear Plant Units 1 and 2 located near Ft. Pierce, Florida. Thus, through Congressional action in creation of the agency; and the fact that the named-actionable parties identified above by Petitioners are collectively and singularly a licensee of the NRC, the agency has jurisdiction and authority to grant the Petition.

STANDARD OF REVIEW

A. Criteria for Reviewing Petitions Under 10 C.F.R. §2.206

The staff will review a petition under the requirements of 10 C.F.R. §2.206 if the request meets all of the following criteria:

- The petition contains a request for enforcement-related action such as issuing an order modifying, suspending, or revoking a license, issuing a notice of violation, with or without a proposed civil penalty, etc.
- The facts that constitute the basis for taking the particular action are specified. The petitioner must provide some element of support beyond the bare assertion. The supporting facts must be credible and sufficient to warrant further inquiry.
- There is no NRC proceeding available in which the petitioner is or could be a party and through which petitioner's concerns could be addressed. If there is a proceeding available, for example, if a petitioner raises an issue that he or she has raised or could raise in an ongoing licensing proceeding, the staff will inform the petitioner of the ongoing proceeding and will not treat the request under 10 C.F.R. §2.206.

B. Criteria for Rejecting Petitions Under 10 C.F.R. §2.206

- The incoming correspondence does not ask for an enforcement-related action or fails to provide sufficient facts to support the petition but simply alleges wrongdoing, violations of NRC regulations, or existence of safety concerns. The request cannot be simply a general statement of opposition to nuclear power or a general assertion without supporting facts (e.g., the quality assurance at the facility is inadequate). These assertions will be treated as routine correspondence or as allegations that will be referred for appropriate action in accordance with MD 8.8, "Management of Allegations".
- The petitioner raises issues that have already been the subject of NRC staff review and evaluation either on that facility, other similar facilities, or on a generic basis, for which a resolution has been achieved, the issues have been resolved, and the resolution is applicable to the facility in question. This would include requests to reconsider or reopen a previous enforcement action (including a decision not to initiate an enforcement action) or a director's decision. These requests will not be treated as a 2.206 petition unless they present significant new information.
- The request is to deny a license application or amendment. This type of request should initially be addressed in the context of the relevant licensing action, not under 10 C.F.R. 2.206.
- The request addresses deficiencies within existing NRC rules. This type of request should be addressed as a petition for rulemaking.

See, Volume 8, Licensee Oversight Programs, Review Process for 10 C.F.R. Petitions, Handbook 8.11 Part III.

**REQUEST FOR ENFORCEMENT-RELATED ACTION TO MODIFY,
SUSPEND, OR REVOKE A LICENSE AND ISSUE A NOTICE OF
VIOLATION WITH A PROPOSED CIVIL PENALTY**

A. Request for Enforcement-Related Action

Petitioner respectfully requests that the NRC take escalated enforcement action against the above-captioned licensee and suspend, or revoke the NRC license(s) granted to the licensee for operation of the St. Lucie Nuclear Plant, Units 1 and 2; and that the NRC issue a notice of violation with a proposed civil penalty against the collectively named and each singularly named licensee captioned-above in this matter.

B. Facts That Constitute the Basis for Taking the Requested Enforcement-Related Action Requested by Petitioner

On April 19, 2010, the licensee admitted to the NRC that when the St. Lucie Unit 1 was licensed, the facility was not required to incorporate a single failure design capability for a non-safety system - and FPL concluded that a violation of 10 C.F.R. 50, Appendix B, Criterion III, did not occur as found by NRC inspectors.

Petitioners contend that the licensee's admission as described immediately above and in NRC (EA-09-321) dated April 19, 2010 - supports a finding that the licensee is operating the St. Lucie Nuclear Plant (SLN), Units 1 and 2, well-outside the NRC's nuclear safety regulations under 10 C.F.R. §50; and that the Component Cooling Water (CCW) system employed at SLN Units 1 and 2, is a nuclear safety-related system - to the extent that the CCW system serves to remove heat from the reactor core (during nuclear reactor power operations) and serves to remove decay heat during times when the nuclear reactors are in a shut-down mode of operation.

Petitioners further contend that since the licensee admitted to the NRC that the SLN facility Unit-1 was licensed by the NRC for operation - not requiring the incorporation of a single failure design capability for the CCW system - that the licensee's NRC operational license for SLN Units 1 and 2 are invalid - and that the NRC should ORDER the licensee to *immediately* bring SLN Units 1 and 2 to a cold-shut down mode of operation to protect public health and safety in these circumstances.

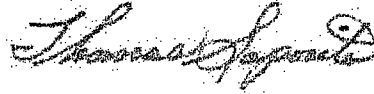
C. There Is No NRC Proceeding Available in Which the Petitioner is or Could be a Party and Through Which Petitioner's Concerns Could be Addressed

Petitioner avers here that there is no NRC proceeding available in which the Petitioner is or could be a party and through which Petitioner's concerns could be addressed.

CONCLUSION

FOR ALL THE ABOVE STATED REASONS, and because Petitioners have amply satisfied all the requirements under 10 C.F.R. §2.206 for consideration of [his] Petition by the NRC Petition Review Board (PRB), the NRC should grant Petitioner's requests made in the instant Petition as a matter of law.

Respectfully submitted,



Thomas Saporito
Senior Consulting Associate
Saprodani Associates
Post Office Box 8413
Jupiter, Florida 33468-8413
Voice: (561) 972-8363
thomas@saprodani-associates.com

CERTIFICATE OF SERVICE

I HEREBY CERTIFY, that on this 3rd day of April, 2011, a copy of foregoing document was provided to those identified below by means shown:

Hon. William Borchardt
Executive Director for Operations
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555
{Sent via U.S. Mail and electronic mail}

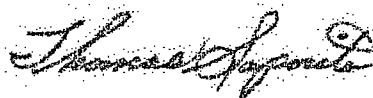
Melanie Checkle, Allegations Coordinator
U.S. Nuclear Regulatory Commission
Region II Headquarters
Atlanta, Georgia 30303
{Sent via electronic mail}

Hon. Gregory B. Jaczko, Chairman
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555
{Sent via electronic mail}

Oscar DeMiranda
Senior Allegations Coordinator
U.S. Nuclear Regulatory Commission
Region II Headquarters
Atlanta, Georgia 30303
{Sent via electronic mail}

Carolyn Evans, Dir. of Enforcement
U.S. Nuclear Regulatory Commission
Region II Headquarters
Atlanta, Georgia 30303
{Sent via electronic mail}

Local and National Media Sources



By: _____
Thomas Saporito
Senior Consulting Associate

**UNITED STATES NUCLEAR REGULATORY COMMISSION
BEFORE THE EXECUTIVE DIRECTOR FOR OPERATIONS**

In the Matter of:

**SAPRODANI ASSOCIATES, and
THOMAS SAPORITO**

DATE: 17 APRIL 2011

Petitioner,

v.

**PROGRESS ENERGY,
WILLIAM D. JOHNSON, and
H.B. ROBINSON NUCLEAR PLANT**

Licensee.

**PETITION UNDER 10 C.F.R. §2.206 SEEKING ENFORCEMENT
ACTION AGAINST PROGRESS ENERGY, WILLIAM D. JOHNSON,
AND H.B. ROBINSON NUCLEAR PLANT**

NOW COMES, SaproDani Associates, by and through and with, Thomas Saporito, Senior Consulting Associate (hereinafter "Petitioner") and submit a "*Petition Under 10 C.F.R. §2.206 Seeking Enforcement Action Against Progress Energy, William D. Johnson, and H.B. Robinson Nuclear Plant*" (Petition). For the reasons stated below, the U.S. Nuclear Regulatory Commission (NRC) should grant the Petition as a matter of law:

NRC HAS JURISDICTION AND AUTHORITY TO GRANT PETITION

The NRC is the government agency charged by the United States Congress to protect public health and safety and the environment related to operation of commercial nuclear reactors in the United States of America (USA). Congress charged the NRC with this grave responsibility in creation of the agency through passing the Energy Reorganization Act of 1974 (ERA). In the instant action, Progress Energy, William D. Johnson, and H.B. Robinson Nuclear Plant are collectively and singularly a "licensee" of the NRC and subject to NRC regulations and authority under 10 C.F.R. §50 and under other NRC regulations and authority in operation of the H.B. Robinson Nuclear Plant located in Florence, South Carolina. Thus, through Congressional action in creation of the agency; and the fact that the named-actionable parties identified above by Petitioner are collectively and singularly a licensee of the NRC, the agency has jurisdiction and authority to grant the Petition.

STANDARD OF REVIEW

A. Criteria for Reviewing Petitions Under 10 C.F.R. §2.206

The staff will review a petition under the requirements of 10 C.F.R. §2.206 if the request meets all of the following criteria:

- The petition contains a request for enforcement-related action such as issuing an order modifying, suspending, or revoking a license, issuing a notice of violation, with or without a proposed civil penalty, etc.
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- There is no NRC proceeding available in which the petitioner is or could be a party and through which petitioner's concerns could be addressed. If there is a proceeding available, for example, if a petitioner raises an issue that he or she has raised or could raise in an ongoing licensing proceeding, the staff will inform the petitioner of the ongoing proceeding and will not treat the request under 10 C.F.R. §2.206.

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- The incoming correspondence does not ask for an enforcement-related action or fails to provide sufficient facts to support the petition but simply alleges wrongdoing, violations of NRC regulations, or existence of safety concerns. The request cannot be simply a general statement of opposition to nuclear power or a general assertion without supporting facts (e.g., the quality assurance at the facility is inadequate). These assertions will be treated as routine correspondence or as allegations that will be referred for appropriate action in accordance with MD 8.8, "Management of Allegations".
- The petitioner raises issues that have already been the subject of NRC staff review and evaluation either on that facility, other similar facilities, or on a generic basis, for which a resolution has been achieved, the issues have been resolved, and the resolution is applicable to the facility in question. This would include requests to reconsider or reopen a previous enforcement action (including a decision not to initiate an enforcement action) or a director's decision. These requests will not be treated as a 2.206 petition unless they present significant new information.
- The request is to deny a license application or amendment. This type of request should initially be addressed in the context of the relevant licensing action, not under 10 C.F.R. 2.206.
- The request addresses deficiencies within existing NRC rules. This type of request should be addressed as a petition for rulemaking.

See, Volume 8, Licensee Oversight Programs, Review Process for 10 C.F.R. Petitions, Handbook 8.11 Part III.

**REQUEST FOR ENFORCEMENT-RELATED ACTION TO MODIFY,
SUSPEND, OR REVOKE A LICENSE AND ISSUE A NOTICE OF
VIOLATION WITH A PROPOSED CIVIL PENALTY**

A. Request for Enforcement-Related Action

Petitioner respectfully requests that the NRC take escalated enforcement action against the above-captioned licensee and suspend, or revoke the NRC license granted to the licensee for operation of the H.B. Robinson Nuclear Plant; and that the NRC issue a notice of violation with a proposed civil penalty against the collectively named and each singularly named licensee captioned-above in this matter.

B. Facts That Constitute the Basis for Taking the Requested Enforcement-Related Action Requested by Petitioner

On March 28, 2010, the NRC sent a Special Inspection Team (SIT), to investigate the circumstances of a significant event that occurred at the H.B. Robinson Nuclear Plant which caused a condition that increased the chance of reactor core damage. The NRC subsequently utilized an Augmented Inspection Team (AIT), after discovery of multiple problems at the H.B. Robinson Nuclear Plant including design and procurement of safety equipment, maintenance, operations, and training over many years. The NRC justifies use on an AIT when the risk of reactor core damage rises to a factor of 100.

The chain of events at the H.B. Robinson Nuclear Plant are as follows:

1. An electrical cable shorted out and started a fire.
2. A circuit breaker designed to automatically open and de-energize power to the shorted cable failed - allowing electric current to flow through the short-circuited cable to ground and reducing the voltage of the circuit.
3. The effected circuit which normally supplied electric power to a circulating water pump to cool the reactor core, experienced a drop in power causing the output of the pump to decrease - which tripped the nuclear reactor.
4. The electrical problems damaged the main power transformer between the plant and its electrical grid - resulting in a loss of electrical power to about 1/2 of the nuclear plant's equipment.
5. The loss of electrical power caused valves on drain lines to remain open - allowing heat to escape from the reactor more rapidly than normal. The operators did not notice the

open drain valves or abnormally fast cool down.

6. Plant operators also failed to notice - for nearly an hour - that pumps transferring water from a tank to the reactor vessel failed to automatically realign.
7. After four-hours into the event, plant operators attempted to restore power to the de-energized electric circuit without first ensuring that the original fault had been repaired - which it had not.
8. When the plant operators closed the electrical breaker to repower the circuit, they re-energized the original shorted cable causing another fire. The electrical disturbance triggered alarms on both sets of station batteries - prompting the licensee to declare and emergency Alert.
9. The above scenario of events were gleaned by Petitioner from a report issued by the Union of Concerned Scientists (USC) - which also stated that Progress Energy informed the NRC in writing that certain diagnostics and testing had been performed at the H.B. Robinson Nuclear Plant - when, in fact, it had not been done.

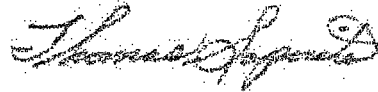
C. There Is No NRC Proceeding Available in Which the Petitioner is or Could be a Party and Through Which Petitioner's Concerns Could be Addressed

Petitioner avers here that there is no NRC proceeding available in which the Petitioner is or could be a party and through which Petitioner's concerns could be addressed.

CONCLUSION

FOR ALL THE ABOVE STATED REASONS, and because Petitioner has amply satisfied all the requirements under 10 C.F.R. §2.206 for consideration of the Petition by the NRC Petition Review Board (PRB), the NRC should grant Petitioner's requests made in the instant Petition as a matter of law.

Respectfully submitted,



Thomas Saporito
Senior Consulting Associate
Saprodani Associates
Post Office Box 8413
Jupiter, Florida 33468-8413
Voice: (561) 972-8363
thomas@saprodani-associates.com

CERTIFICATE OF SERVICE

I HEREBY CERTIFY, that on this 17th day of April, 2011, a copy of foregoing document was provided to those identified below by means shown:

Hon. William Borchardt
Executive Director for Operations
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555
{Sent via U.S. Mail and electronic mail}

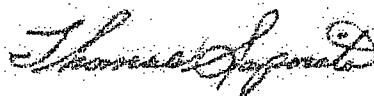
Melanie Checkle, Allegations Coordinator
U.S. Nuclear Regulatory Commission
Region II Headquarters
Atlanta, Georgia 30303
{Sent via electronic mail}

Hon. Gregory B. Jaczko, Chairman
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555
{Sent via electronic mail}

Oscar DeMiranda
Senior Allegations Coordinator
U.S. Nuclear Regulatory Commission
Region II Headquarters
Atlanta, Georgia 30303
{Sent via electronic mail}

Carolyn Evans, Dir. of Enforcement
U.S. Nuclear Regulatory Commission
Region II Headquarters
Atlanta, Georgia 30303
{Sent via electronic mail}

Local and National Media Sources



By: _____
Thomas Saporito
Senior Consulting Associate