

March 20, 2014

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

BEFORE THE COMMISSION

In the Matter of )  
 )  
FLORIDA POWER & LIGHT CO. ) Docket No. 50-389  
 )  
(St. Lucie Plant, Unit 2) )

AFFIDAVIT OF OMAR R. LÓPEZ-SANTIAGO  
CONCERNING SACE'S CLAIMS REGARDING STAFF'S STEAM GENERATOR INSERVICE  
INSPECTION

I, Omar R. López-Santiago, on the basis of my professional opinion, and under penalty of perjury, do hereby state as follows:

1. I am employed by the United States Nuclear Regulatory Commission ("NRC") as the Branch Chief (Acting) for Engineering Branch 3 in the Nuclear Regulatory Commission's (NRC) Region II Office in Atlanta, Georgia. A statement of my professional qualifications is attached as Attachment A.

2. This affidavit is prepared in response to "Southern Alliance for Clean Energy's [SACE's] Motion to Stay Restart of St. Lucie Unit 2 Pending Conclusion of Hearing Regarding De Facto Amendment of Operating License and Request for Expedited Consideration" (March 10, 2014) (Motion to Stay). I also reviewed SACE's Motion to Stay and "[SACE's] Hearing Request Regarding De Facto Amendment of St. Lucie Unit 2 Operating License" (March 10, 2014) (Hearing Request), "Declaration of Arnold Gundersen" (March 9, 2014) (Gundersen Declaration) with Exhibits 1 - 4, and declarations of standing from several persons. (ADAMS Accession No. ML14071A431).

3. It is my understanding that a *de facto* license amendment occurs when there is a Staff action that provides additional authority or approval beyond that in the existing license.

4. Based on my review of SACE's Motion to Stay and Hearing Request, it appears that SACE is claiming that the NRC Staff's inspection actions are a *de facto* amendment to the Florida Power and Light Co.'s license to operate St. Lucie Unit 2. In particular, SACE appears to claim that the Staff's performance of NRC Inspection Procedure (IP) 71111.08, Inservice Inspection Activities (Jan. 1, 2012) (ADAMS Accession No. ML11262A023) is a type of approval beyond the authority granted in the existing license.

5. In this declaration, I present staff information with respect to the purpose and sole effect of the Staff's ISI activities.

6. FPL's existing license, which includes technical specifications, authorizes FPL to operate St. Lucie Plant, Unit 2, a pressurized water nuclear reactor, and associated steam generators and electrical generating equipment.

7. My branch is responsible for, among other things, scheduling, executing, and documenting of NRC Inspection Procedure (IP) 71111.08, Inservice Inspection Activities (Jan. 1, 2012) (ADAMS Accession No. ML11262A023).

8. The objective of NRC IP 71111.08 is "To assess the effectiveness of the licensee's program for monitoring degradation of the reactor coolant system boundary, risk-significant piping system boundaries, and the containment boundary." IP 71111.08, Inservice Inspection Activities, at 1 (Jan. 1, 2012) (ADAMS Accession No. ML11262A023).

9. The results of the routine IP 71111.08 inspection are used to assess Florida Power and Light's (FPL's) compliance with its existing license, including its technical specifications.

10. Based on sampling activities related to the Unit 2 steam generator replacement

project, including replacement project design and planning, plant change modification packages, and the 50.59 evaluation, the inspectors identified no findings (no more-than-minor issues resulting from the licensee not meeting a requirement or self-imposed standard where the cause was reasonably within the licensee's ability to foresee and correct, and therefore should have been prevented). St. Lucie Nuclear Plant - NRC Integrated Inspection Report 05000335/2007005, 05000389/2007005, at section 4OA5.3 (Feb. 1, 2008) (ADAMS Accession No. ML080350408). The NRC did not perform IP 71111.08 for steam generator tube activities during Fall 2007 because both SGs were replaced. St. Lucie Nuclear Plant - NRC Integrated Inspection Report 05000335/2007005, 05000389/2007005, at section 1R08.4 (Feb. 1, 2008) (ADAMS Accession No. ML080350408).

11. Routine IP 71111.08 inspections have occurred at St. Lucie since the steam generators were replaced in 2007. Section 1R08.4 of each of the following reports documents that no findings of significance were identified for SG tube inspection activities sampled by the inspectors:

St. Lucie Nuclear Plant - NRC Integrated Inspection Report 05000335/2009003, 05000389/2009003 (July 29, 2009) (ADAMS Accession No. ML092110022);

St. Lucie Nuclear Plant - NRC Integrated Inspection Report 05000335/2011002, 05000389/2011002 and Emergency Preparedness Report 05000335/2011501, 05000389/2011501 (April 29, 2011) (ADAMS Accession No. ML111220053);

St. Lucie Nuclear Plant - NRC Integrated Inspection Report 05000335/2012004, 05000389/2012004 (Oct. 31, 2012) (ADAMS Accession No. ML12304A067).

12. I reviewed the above inspection reports and confirmed that for areas addressed by 71111.08, the findings did not amend, modify, or otherwise change FPL's authority under its license. The inspection results do not change the authority in the license for FPL to operate St.

Lucie Plant, Unit 2.

13. The next routine IP 71111.08 inspection at St. Lucie Plant, Unit 2 started on March 17th and is estimated to finish on March 21st.

14. As a Branch Chief who supervises inspectors, I assure that inspection findings are consistent with NRC policies and technical requirements, and that any violations are addressed in accordance with the Enforcement Policy and the Enforcement Manual and the Significance Determination Process, and that the inspection findings are not used to amend, modify, or otherwise change a licensee's authority under its license.

15. As with any routine IP 71111.08 inspections, the current IP inspection is not amending, modifying, or otherwise changing FPL's authority under its license. Likewise, the inspection findings do not constitute amendments, approvals, or additional authorization or changes to FPL's authority in the license to restart. Completion of an IP 71111.08 inspection is not a pre-requisite to restart of St. Lucie Unit 2. However, the existing license already prescribes conditions which must be met to restart. The inspection verifies compliance with the existing license.

16. Mr. Gundersen states that "if the NRC approves the results of the ISI, once again it will be implicitly approving the operation of Unit 2 outside its licensing basis." Gundersen Declaration at ¶ 57. Contrary to this claim, the Staff does not approve the results of the ISI. Instead, a routine IP 71111.08 inspection is how the NRC verifies that the ISI activities meet Unit 2's current operating license.

17. Accordingly, I disagree with SACE's claim that the NRC's past and future inspections of the licensee's SG tube inspection activities constitute *de facto* license amendments.

18. I also disagree with SACE's claim that restart of Unit 2 must be stayed until

publication of the results of the IP 71111.08 inspection currently underway. FPL has the authority under its existing license to restart without waiting for the publication of the inspection report. The purpose of the report is to help ensure that any violations of NRC requirements identified during the IP 71111.08 inspection are appropriately handled in accordance with the NRC Enforcement Policy. The report does not change to FPL's operating authority.

19. The results of the current IP 71111.08 inspection will be published in accordance with NRC Inspection Manual IMC 0612, "Power Reactor Inspection Reports," (Jan. 24, 2103) (ADAMS Accession No. ML12244A483). The NRC is planning to publish the results in stand-alone inspection report number 05000389/2014008, which is scheduled for publication within thirty days of the exit meeting (the exit meeting is tentatively scheduled for March 21, 2014).

20. I declare under penalty of perjury that my statements set in the foregoing and in my statement of professional qualifications attached hereto are true and correct to the best of my knowledge, information, and belief.

Executed in Accord with 10 C.F.R. § 2.304(d)

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Executed in Rockville, Maryland  
this 20th day of March, 2014