



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

January 30, 2015

saprodani@gmail.com

Mr. Thomas Saporito
Stuart, FL 33497

Dear Mr. Saporito:

This letter is in reference to the petition you submitted on July 18, 2014. You filed the petition under Title 10 of the *Code of Federal Regulations* (10 CFR), Section 2.206, "Requests for action under this subpart." Your petition, along with the supplements you submitted by electronic mail (e-mail), the transcripts from the teleconference held on September 3, 2014; and other correspondence related to the petition, are in the Agencywide Documents Access and Management System (ADAMS) at package Accession No. ML14202A521. In your petition, you request that the U.S. Nuclear Regulatory Commission (NRC) and Florida Power & Light Company (FPL or the licensee) take actions related to the ultimate heat sink (UHS) at Turkey Point Nuclear Generating Unit Nos. 3 and 4 (Turkey Point). You requested the NRC take escalated enforcement action against FPL, specifically to issue FPL a violation and civil penalty, and to issue FPL a confirmatory order to maintain Turkey Point in a cold shutdown condition until FPL completes independent assessments of the UHS temperature increase and its impacts on safety-related equipment. The basis for your request was your assertion that operation of Turkey Point at a UHS temperature greater than 100 degrees Fahrenheit will significantly jeopardize public health and safety and the environment.

The NRC established a Petition Review Board (PRB) to review your petition. The PRB was composed of representatives from the following organizations within the NRC: Division of Inspection and Regional Support in the Office of Nuclear Reactor Regulation (NRR); Division of Operating Reactor Licensing, NRR; Division of Policy and Rulemaking, NRR; Division of Safety Systems (DSS), NRR; the Office of Enforcement; Region II; and the Office of the General Counsel. You addressed the PRB by teleconference on September 3, 2014, to discuss your petition. The PRB considered that discussion in its deliberations regarding your request for enforcement action and in establishing the schedule for the review of your petition. The PRB met internally on October 15 and November 20, 2014, to discuss your petition, as supplemented, with respect to the criteria for review described in NRC's Management Directive (MD) 8.11, "Review Process for 10 CFR 2.206 Petitions."

The PRB determined that a portion of your request (i.e., that the NRC take enforcement action until the licensee completes an independent root cause assessment for the rise in UHS temperature) meets the criteria for review in accordance with MD 8.11 because the NRC staff has not yet completed its review of the licensee's root cause assessment. As documented in Section 4OA3.2 of the NRC's Integrated Inspection Report No. 05000250(251)/2014004, dated October 23, 2014 (ADAMS Accession No. ML14296A129), the NRC staff opened an "unresolved item" that documents the staff's plans to inspect the licensee's root cause of the UHS conditions and associated corrective actions. The staff intends to complete its inspection activities by March 31, 2015, and issue its associated inspection report within 45 days of that date. After completion of the NRC's inspection activities and issuance of the associated report, the PRB will meet to determine the resolution of your petition. Staff from NRC's Region II office and the Balance-of-Plant Branch, DSS, NRR, will assist with the resolution of your petition.

The PRB has determined that the other requests in your petition (e.g., that the licensee evaluate the impacts of the UHS temperature increase on safety-related equipment) do not meet the MD 8.11 criteria for review because they concern issues that have already been the subject of NRC staff review and evaluation and are resolved. In Enclosure 1 to this letter, the NRC explains why it did not accept those requests into the 2.206 process. As such, the NRC is not granting your request to maintain Turkey Point in a cold shutdown mode of operation, because the NRC concluded in its safety evaluation for Amendments 261 and 256 (ADAMS Accession No. ML14199A107) for Turkey Point 3 and 4, respectively, that there is reasonable assurance that operation up to the new UHS temperature limit will not endanger the health and safety of the public.

During the teleconference with you and the PRB on September 3, 2014, you alleged NRC staff wrongdoing. These allegations are contained in the transcripts from the teleconference. The NRC staff provided the Office of the Inspector General with your allegations of NRC staff wrongdoing contained in the transcripts of the teleconference.

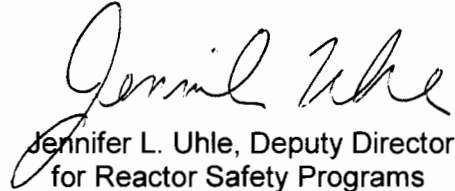
As provided by Section 2.206, the NRC will take action on your request within a reasonable time. Ms. Audrey Klett has been assigned as the petition manager for your petition. You may direct any questions you have concerning the petition process or the status of your petition to Ms. Klett by phone at 301-415-0489 or by e-mail at Audrey.Klett@nrc.gov. I have enclosed a copy of the notice that will be published in the *Federal Register*. Management Directive 8.11 and NUREG/BR-0200, "Public Petition Process," can be found in ADAMS under Accession Nos. ML041770328 and ML050900248, respectively. If you need hardcopies of these documents, please contact Ms. Klett.

T. Saporito

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I appreciate you bringing these matters to the attention of the NRC.

Sincerely,

A handwritten signature in black ink, appearing to read "Jennifer L. Uhle". The signature is written in a cursive style with a large initial "J".

Jennifer L. Uhle, Deputy Director
for Reactor Safety Programs
Office of Nuclear Reactor Regulation

Enclosures:

1. Disposition of Requests
2. *Federal Register* Notice

cc: Florida Power & Light Company

Listserv

ENCLOSURE 1

DISPOSITION OF REQUESTS THAT WERE NOT ACCEPTED

INTO THE 10 CFR 2.206 PROCESS

Disposition of Requests that were Not Accepted into the 10 CFR 2.206 Process

The following aspects of the petition¹ did not meet the criteria for review, because they have already been the subject of U.S. Nuclear Regulatory Commission (NRC) staff review and evaluation for which the staff achieved a resolution. Although these requests did not meet the criteria of Management Directive (MD) 8.11, "Review Process for 10 CFR 2.206 Petitions,"² the NRC staff appreciates hearing this concern. The following paragraphs explain why the NRC did not accept these requests into the 2.206 process.

In your petition dated July 18, 2014, you stated that operation of the Turkey Point nuclear plant with an ultimate heat sink (UHS) temperature greater than 100 degrees Fahrenheit (°F) will significantly jeopardize public health and safety. You also stated that this would result in an accident with an unwanted release of nuclear material and radioactive particles, and that operation with a UHS temperature greater than 100 °F would likely result in the licensee's loss of control of the two nuclear reactors and result in a nuclear accident similar to the ongoing Fukushima nuclear accident in Japan. You requested a teleconference with the NRC's Petition Review Board (PRB) before its initial meeting, and you provided 16 supplements to your petition before the PRB's teleconference with you on September 3, 2014. You also e-mailed the petition manager your talking points after the teleconference as an additional supplement.

The bases for your requested enforcement actions, as the NRC understands them, and the details on why NRC did not accept them into the 2.206 process, are summarized below (with references to the page numbers of the September 3, 2014, teleconference transcripts), followed by a description of the action taken to resolve each issue.

- You indicated that the amount of rainfall was not as low as the licensee said it was (page 41, lines 1 through 25). You provided a news article (Attachment 13 to the petition) stating that water managers with the South Florida Water Management District say rainfall in southeast Miami-Dade has been average and that past droughts in the last 14 years did not cause issues.

In its request for a Notice of Enforcement Discretion (NOED),³ the licensee provided the rainfall amount measured at the Turkey Point cooling canals, which indicated a lower amount of rainfall compared to the previous years listed. The NRC project manager (PM) for Turkey Point reviewed weather data available from the Internet when the amendment request was submitted and monitored radar data available from weather-related Web sites on a daily basis during the processing of the amendment request. Based on the PM's search of data and the radar information available at the time, the NRC staff determined that the licensee's assertion about rainfall being below average at the site was reasonable. The NRC staff also researched historical weather data for Homestead, which is near the Turkey Point site. Information from various

¹ The petition and its supplements, the transcripts from the teleconference held on September 3, 2014, and other correspondence related to the petition are in the Agencywide Documents Access and Management System (ADAMS) at package Accession No. ML14202A521.

² ADAMS Accession No. ML041770328.

³ ADAMS Accession No. ML14204A083.

weather-related Web sites indicated that this area had lower than average rainfall amounts in 2014.

- You indicated that the NRC relaxed its safety regulations and the plant's safety margins (page 14, lines 4–20). You indicated that because of this relaxation, the plant will not be able to mitigate an accident (page 15, lines 1–12).

As documented in the NRC staff's safety evaluation for Amendments 261 and 256⁴ for Turkey Point Units 3 and 4, which increased the surveillance frequency for component cooling water (CCW) heat exchanger (HX) performance monitoring and increased the Technical Specifications (TS) UHS temperature limit at which the licensee would have to initiate downpowering the nuclear units, the NRC staff determined that the plants can mitigate a design-basis accident at the new TS UHS temperature limit.

- You indicated that the NRC rushed the amendment on an emergency basis (page 17, lines 15–19; page 43, lines 2–6).

The regulations in Title 10 of the *Code of Federal Regulations* (10 CFR) 50.91(a)(5) allow for the processing of amendment requests on an emergency basis, in that failure to act in a timely way would result in derating or shutdown of a nuclear power plant or in prevention of either resumption of operation or of increase in power output. The regulations in 10 CFR 50.91(a)(6) also allow for the processing of amendment requests on an exigent basis when the Commission finds that exigent circumstances exist, in that a licensee and the NRC must act quickly and that time does not permit the NRC to publish a *Federal Register* notice allowing 30 days for prior public comment. The NRC processed the amendment request on an exigent basis and provided prior notice to the public. When the NRC processes an amendment request on an emergency or exigent basis, it dedicates its resources to completing that action.

- You indicated that the higher canal water temperature is a danger to the wildlife that lives in the canal and to plant operation (page 34, lines 3–6; page 36, lines 3–7). You also cited environmental concerns from a Miami Herald article about the plant pumping in water from a nearby canal system (page 39, line 3 to page 40, line 6).

The NRC's environmental assessment for Amendments 261 and 256 concluded that there were no significant environmental impacts associated with the new TS limit based on its evaluation of the information provided in the licensee's application and other available information. The NRC staff's environmental assessment was published in the *Federal Register* and is referenced in the safety evaluation for these amendments. In its safety evaluation for Amendments 261 and 256, the NRC staff concluded that the plants can mitigate a design basis accident at the new TS UHS temperature limit.

The South Florida Water Management District (SFWMD) authorized the licensee to inject water from the Biscayne and Floridan Aquifers and the L-31E Canal system into the CCS. The actions taken by the SFWMD are outside the scope of the NRC's authority.

⁴ ADAMS Accession No. ML14199A107.

- You indicated that the plant was designed and built for safe operation with the UHS water temperature of, at most, 100 °F, and that the Updated Final Safety Analysis Report (UFSAR) specified that the UHS be 100 °F or less (page 24, lines 16–25). You indicated that the UFSAR results will not remain valid for an increase in UHS temperature to 104 °F (page 37, lines 11–18).

The NRC's safety evaluation for Amendments 261 and 256 determined that the higher TS UHS water temperature limit would not significantly affect the UFSAR results for containment temperature and pressure as long as the CCW HXs are adequately maintained. The licensee is required to update the UFSAR in accordance with 10 CFR 50.59, "Changes, Tests, and Experiments," and 10 CFR 50.71, "Maintenance of Records, Making of Reports," based on the results of the amendments' safety evaluation and the licensee's analysis to support the amendments. The NRC reviews the licensee's UFSAR updates to ensure they document new licensing basis information.

- You indicated that the UHS TSs Surveillance Requirement (SR) is flawed, because it would allow the licensee to measure or take the temperatures during the coldest part of the day (page 28, line 19 to page 29, line 19).

Amendments 261 and 256 require the licensee to verify UHS temperature hourly if the UHS temperature exceeds 100 °F. This increased frequency ensures that cooling canal system temperature variations are appropriately captured. The Turkey Point operations surveillance procedure, OSP 201.1, "SNPO Daily Logs," requires monitoring and recording of the intake temperature every 8 hours. Therefore, the staff does not expect an extreme change in UHS temperature to occur without the licensee's awareness.

- You indicated that the CCW HX performance test frequency should be once per 7 days (page 28, lines 13–22). You indicated that the licensee failed to conduct the CCW HX performance test adequately and that the test frequency is not adequate because the increase in salinity and temperature can affect heat transfer capability and safety-related plant equipment (page 43, lines 16–24; page 45, lines 8–14).

The licensee's HX3/HX4 program determines the extent and impact of HX fouling on heat transfer capability. The NRC staff determined that the new TSs SR frequency of 14 days was reasonable for determining CCW HX performance based on Turkey Point's operating experience with HX fouling, the administrative conservatisms the licensee built into its plan to evaluate the CCW HXs, and the combined nature of the 14-day SR and the daily or hourly check of SR 4.7.4. In addition, Turkey Point's TS SR 4.7.2.a requires that the CCW system shall be demonstrated operable at least once per 12 hours by verifying that two CCW HXs are capable of removing design basis heat loads. This SR helps ensure that sufficient cooling capacity is available for continued operation of safety-related equipment during normal and accident conditions.

- You indicated that the licensee misled the NRC regarding the basis for requesting that the NRC process its amendment request as an emergency amendment in that there was no grid reliability issue (pages 46 and 47).

During the course of its review of the licensee's NOED request, which occurred in parallel with the NRC's review of the amendment request, the NRC staff independently verified the licensee's statements on grid reliability with the North American Electric Reliability Corporation (NERC) and the Florida Reliability Coordinating Council (FRCC). NERC and FRCC confirmed the licensee's statements.

ENCLOSURE 2

FEDERAL REGISTER NOTICE

FLORIDA POWER & LIGHT COMPANY

DOCKET NOS. 50-250 AND 50-251

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50-250 and 50-251; NRC-2015-0011]

Florida Power & Light Company

Turkey Point Nuclear Generating Unit Nos. 3 and 4

AGENCY: Nuclear Regulatory Commission.

ACTION: 10 CFR 2.206 request; receipt.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is giving notice that by petition dated July 18, 2014, as supplemented, Mr. Thomas Saporito (the petitioner) requested that the NRC take enforcement action with regard to Florida Power & Light Company (FPL or the licensee). The petitioner's requests are included in the SUPPLEMENTARY INFORMATION section of this document.

ADDRESSES: Please refer to Docket ID **NRC-2015-0011** when contacting the NRC about the availability of information regarding this document. You may obtain publicly available information related to this document using any of the following methods:

- **Federal Rulemaking Web Site:** Go to <http://www.regulations.gov> and search for Docket ID **NRC-2015-0011**. Address questions about NRC dockets to Carol Gallagher; telephone: 301-287-3422; e-mail: Carol.Gallagher@nrc.gov.

- **NRC's Agencywide Documents Access and Management System (ADAMS):** You may obtain publicly available documents online in the ADAMS Public Documents collection at <http://www.nrc.gov/reading-rm/adams.html>. To begin the search, select "ADAMS Public

Documents” and then select “Begin Web-based ADAMS Search.” For problems with ADAMS, please contact the NRC’s Public Document Room (PDR) reference staff at 1-800-397-4209, 301-415-4737, or by e-mail at pdresource@nrc.gov. The ADAMS accession number for each document referenced in this document (if that document is available in ADAMS) is provided the first time that a document is referenced.

- **NRC’s PDR:** You may examine and purchase copies of public documents at the NRC’s PDR, Room O1-F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

SUPPLEMENTARY INFORMATION:

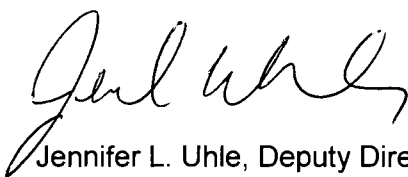
By petition dated July 18, 2014 (ADAMS Accession No. ML14202A520), as supplemented by e-mail (ADAMS Accession No. ML14202A521) and the petitioner’s address to the Petition Review Board on September 3, 2014 (ADAMS Accession No. ML14266A123), the petitioner requested the NRC take enforcement action against FPL due to increased ultimate heat sink (UHS) temperatures at Turkey Point Nuclear Generating Unit Nos. 3 and 4 (Turkey Point). The petition states concern with the impact of the higher UHS temperatures on the environment and the licensee’s capability to mitigate accidents at the higher temperatures.

The petitioner requested that the NRC take escalated enforcement action against FPL, specifically to issue FPL a violation and civil penalty, and to issue FPL a confirmatory order to maintain Turkey Point in a cold shutdown condition until FPL completes independent assessments of the UHS temperature increase and its impacts on safety-related equipment. As the basis for this request, the petitioner stated that operation of Turkey Point at a UHS temperature greater than 100 degrees Fahrenheit will significantly jeopardize public health and safety and the environment.

The request is being treated pursuant to Section 2.206 of Title 10 of the *Code of Federal Regulations* (10 CFR). The NRC reviewed the petition, its supplements, and the transcripts from the meeting on September 3, 2014, and referred the request to the Director of the Office of Nuclear Reactor Regulation. The Director determined that the petitioner's request that the NRC take enforcement action until the licensee completes an independent root cause assessment for the rise in UHS temperature met the criteria for review under the 10 CFR 2.206 process. The Director determined that the other requests in the petition did not meet the criteria for review under the 10 CFR 2.206 process because they concern issues that have already been the subject of NRC staff review and evaluation and have been resolved. The NRC will take appropriate action on this petition within a reasonable time.

Dated at Rockville, Maryland, this 30th day of January, 2015.

For The Nuclear Regulatory Commission.



Jennifer L. Uhle, Deputy Director
for Reactor Safety Programs
Office of Nuclear Reactor Regulation.

T. Saporito

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I appreciate you bringing these matters to the attention of the NRC.

Sincerely,

/RA/

Jennifer L. Uhle, Deputy Director
for Reactor Safety Programs
Office of Nuclear Reactor Regulation

Enclosures:

1. Disposition of Requests
2. *Federal Register* Notice

cc: Florida Power & Light Company

Listserv

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ADAMS Accession Nos.:

- ML14202A521 (Package)**
- ML14202A520 (Incoming Petition)**
- ML14349A597 (Acknowledgement Letter)**
- ML14349A605 (Federal Register Notice)**
- ML050900248 (NUREG/BR-0200)**
- ML041770328 (MD 8.11)**

*via e-mail

OFFICE	NRR/DORL/LPL2-2/PM	NRR/DORL/LPL1-1/PM*	NRR/DORL/LPL2-2/LA/T	NRR/DORL/LPL2-2/LA	NRR/DPR/PGCB/PM*
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