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AUTH.NAME AUTHOR AFFILIATION
REYES,L.A. Region 2 (Post 820201)
RECIP.NAME RECIPIENT AFFILIATION
PLUNKETT,T.F. Florida Power & Light Co.

SUBJECT: Discusses J Giles complaint of alleged discrimination,under section 211 of Energy Reorganization Act of 1974,as amended in that employment was terminated on 971222,for reporting safety concerns to NRC.

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TITLE: Region Response to Licensee re Allegations (Publicly Avail)

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June 11, 1998

EA 98-330

Florida Power & Light Company
ATTN: Mr. T. F. Plunkett
President - Nuclear Division
P. O. Box 14000
Juno Beach, Florida 33408-0420

SUBJECT: COMPLAINT OF ALLEGED DISCRIMINATION

Dear Mr. Plunkett:

On January 20, 1998, the U. S. Department of Labor (DOL), Occupational Safety and Health Administration (OSHA), Atlanta, Georgia received a complaint from an individual previously employed by Florida Power and Light Company's (FPL) St. Lucie Nuclear Plant, Mr. John Giles. By letter dated January 16, 1998, Mr. Giles alleged that he was subjected to discrimination under Section 211 of the Energy Reorganization Act of 1974, as amended, in that he was terminated from employment on December 22, 1997, for reporting safety concerns to the Nuclear Regulatory Commission (NRC). Specifically, Mr. Giles claimed that his termination in December 1997 for refusing to sign a statement associated with reactor operator responsibilities and compliance with overtime policies was actually due to the fact that he had been observed by the St. Lucie Operations Manager discussing excessive overtime use by reactor operators with the NRC in March 1997. In Mr. Giles' DOL complaint, he provides documentation which indicates that his safety concern was substantiated.

On March 23, 1998, the NRC Region II office was informed by the Atlanta Regional Supervisory Investigator for OSHA that a settlement had been reached between FPL and Mr. Giles prior to any investigatory determination by DOL. While we recognize that FPL appears to have settled its differences with Mr. Giles, NRC must review this matter to determine whether a violation of 10 CFR 50.7 may have occurred. Such a violation, if it occurred, could have a chilling effect on other licensee or contractor personnel in that it might deter them from identifying any nuclear safety related concerns they may have.

Accordingly, pursuant to sections 161c, 161o, and 182 and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.204 and 10 CFR 50.54(f), you are required to provide this office, within 30 days of the date of this letter, a response in writing and under oath or affirmation that describes:

1. Your position regarding whether the actions affecting this individual violated 10 CFR 50.7 including the basis for your position, the basis for the employment action taken, and the results of any investigations you may have conducted regarding the circumstances of Mr. Giles' claim;

2. Any corrective action you have taken in direct response to the

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Mr. Giles' complaint and/or your investigative findings associated with the claim; and

3. Actions you have already taken or plan to take to assure that this matter is not having a chilling effect on the willingness of other employees to raise safety and compliance concerns within your organization and, as discussed in NRC Form 3, to the NRC.

We recognize that this case has been settled and that you may not believe that unlawful discrimination has occurred. Consequently and notwithstanding your answer to Item 1 above, we request that you consider the need to address the possible chilling effect that this issue may have on other employees due to the potential perception they may have that the actions associated with Mr. Giles' termination were in retaliation for his reporting safety concerns.

After reviewing your response, the NRC will determine whether any further action is necessary regarding this issue.

Your response should not, to the extent possible, include any personal privacy, proprietary, or safeguards information so that it can be released to the public and placed in the NRC Public Document Room (PDR). If personal privacy information is necessary to provide an acceptable response, then please provide a bracketed copy of your response that identifies the personal privacy-related information and a redacted copy of your response that deletes the personal privacy-related information. Identify the particular portions of the response in question which, if disclosed, would create an unwarranted invasion of personal privacy, identify the individual whose privacy would be invaded in each instance, describe the nature of the privacy invasion, and indicate why, considering the public interest in the matter, the invasion of privacy is unwarranted. If you request withholding on any other grounds, you must specifically identify the portions of your response that you seek to have withheld and provide in detail the bases for your claim of withholding (e.g., provide the information required by 10 CFR 2.790(b) to support a request for withholding confidential commercial or financial information). If safeguards information is necessary to provide an acceptable response, please provide the level of protection described in 10 CFR 73.21.

In accordance with 10 CFR 2.790 of the NRC's "Rules of Practice," a copy of this letter and your response will be placed in the PDR.

Sincerely,

original signed by JRJ for LAR

Luis A. Reyes
Regional Administrator

Docket Nos. 50-335, 50-389
License Nos. DPR-67, NPF-16

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