

January 8, 2018

Mr. Thomas Saporito
Saprodani Associates
4858 SE Major Way
Stuart, FL 34997

Dear Mr. Saporito:

Your petition dated May 2, 2017, as amended on May 22, 2017, and addressed to the Executive Director for Operations, was referred to the Office of New Reactors (NRO) pursuant to the U.S. Nuclear Regulatory Commission's (NRC's) regulations in Title 10 of the *Code of Federal Regulations* (10 CFR) 2.206, "Requests for Action under This Subpart." In your petition, you requested enforcement action against Florida Power and Light Company (FPL), an applicant for a combined license (COL) based on the AP1000 design, and current NRC COL licensees employing the AP1000 design.

Summary of Request:

You requested that the NRC take the following actions pursuant to 10 CFR 2.206:

- (1) Revoke or deny any NRC license requested by the licensee to build or construct or conduct licensed operations of the proposed Turkey Point Units 6 and 7.
- (2) Revoke or deny any NRC license requested by the licensee to build or construct or conduct licensed operation of any nuclear reactor employing the AP1000 nuclear reactor design.

Basis for Request:

As support for your request, you provided to the Petition Review Board (PRB) the following written information through e-mail:

- copy of the FPL letter (L-2016-164) dated August 26, 2016, submitted to the NRC providing the "Annual Update of the Combined License Application, Revision 8 of the Semi-Annual Update" to the departure report
- an article published by Reuters News on May 2, 2017, titled "How Two Cutting Edge U.S. Nuclear Projects Bankrupted Westinghouse Electric Company"
- an article from *Forbes Magazine* dated March 31, 2017, titled "Westinghouse Bankruptcy Shakes the Nuclear World"

- an article from the American Nuclear Society's *Nuclear Café* blog dated May 5, 2017
- an e-mail dated July 6, 2017, sent at 6:12 p.m., requesting enforcement action against Westinghouse and alleging wrongdoing between Westinghouse and the AP1000 licensee
- a document titled "Third Affidavit of Mark A. Quarles," which discusses the adequacy of geologic confining layers at the site for Turkey Point Units 6 and 7 to prevent upward migration of injected municipal wastewater (i.e., partially treated sewage) into an underground source of drinking water¹
- an article dated August 25, 2017, from *Bloomberg*, stating "Duke Asks to Cancel Planned South Carolina Nuclear Reactors"
- newspaper article from the *Miami Herald* titled "FPL postpones Turkey Point Nuclear Expansion—for at least four years"
- an article from the *Inquirer News* titled "Billions down the drain as new nuclear plants scrapped"
- an article from *Daily Energy Insider* titled "U.S. natural gas supply hits 52 year high with shale accounting for 64 percent of total resources"
- the abstract from the NRC staff's final environmental impact statement (EIS) for Turkey Point Units 6 and 7

You also provided verbal statements to the PRB during teleconferences on July 6, 2017, and October 26, 2017.

During the teleconference on July 6, 2017, you read excerpts from the articles that you had provided. One of those articles discussed quality control issues related to the fabrication of AP1000 parts. The article stated that the NRC investigated and took enforcement actions related to those issues. You did not provide any specific facts or examples of issues that the NRC had not addressed.

During that teleconference, you also asked that the NRC investigate and take enforcement actions against Westinghouse and NRC licensees based on the following assertions: (1) Westinghouse gave fraudulent assurances to the NRC and NRC licensees that it could effectively construct parts for the AP1000 and could do so in a timely and effective manner, (2) Westinghouse failed to properly design the AP1000 reactor in accordance with NRC requirements, and (3) the NRC cannot have any assurance that parts manufactured by Westinghouse or its contractors will be properly made and meet NRC requirements. You did not provide any specific facts or examples to support these assertions.

In an e-mail sent after the teleconference on July 6, 2017, you repeated your requests that the NRC investigate and take enforcement action against Westinghouse and licensees that have applied to use the AP1000 design. In that e-mail, you alleged wrongdoing by Westinghouse

¹ The PRB did not find any information in this document related to the subject of your petition—the bankruptcy of Westinghouse and financial qualifications of FPL and AP1000 licensees.

and those licensees. Your allegation was forwarded to the NRO allegations team for appropriate action and was not considered further in the 10 CFR 2.206 process.

On July 27, 2017, the NRC's PRB met to make its initial recommendation on whether to accept or reject your petition for review using the criteria in Management Directive (MD) 8.11, "Review Process for 10 CFR 2.206 Petitions," dated October 25, 2000. In making its recommendation, the PRB considered the information included in your petition and the supporting documentation as well as the verbal statements and e-mail provided on July 6, 2017.

The PRB initially recommended that your request did not meet the criteria for review under 10 CFR 2.206 and should therefore be rejected. This initial PRB decision was conveyed to you on August 1, 2017, through e-mail. The e-mail stated that in accordance with the MD 8.11 Handbook, Part III, under the criteria for "Rejecting Petitions," the PRB recommended rejection for three reasons: (1) your petition failed to provide sufficient facts to support the petition, (2) you raised issues related to AP1000 licensees that have already been the subject of the NRC staff's review, and (3) with regard to Turkey Point Units 6 and 7, you have requested denial of a license application or an amendment.

After receiving the PRB's initial recommendation, you expressed the desire to address the PRB a second time to provide additional information. A second teleconference with the PRB took place on October 26, 2017. After the teleconference, the PRB reconvened on November 8, 2017, to reevaluate all the information you had submitted, including the written information provided for the second teleconference and your statements during that teleconference.

The PRB's final determination is that your petition fails to provide sufficient facts to support the petition and raises issues that the NRC has already reviewed, evaluated, and resolved. Therefore, the PRB has concluded that your petition meets the criteria for rejection in MD 8.11, Part III, C(2).

Discussion:

Your petition requests that the NRC take enforcement action against a licensee and applicants using the AP1000 design. To the extent that the issues raised in your petition relate to the AP1000 design, that design has already been the subject of the NRC staff's review and evaluation as part of the AP1000 design certification. Under 10 CFR Part 52, "Licenses, Certifications, and Approvals for Nuclear Power Plants," Appendix D, "Design Certification Rule for the AP1000 Design," Section VI.B, all safety issues are resolved. The petition did not demonstrate that any new safety issues not already considered related to the design exist.

You assert in your request that Westinghouse's bankruptcy calls into question the financial capabilities of FPL and AP1000 licensees. Consistent with the requirements of 10 CFR 50.33(f)(1), all COL applications include information demonstrating that the applicant is financially qualified to carry out construction and first fuel loading. In accordance with 10 CFR 50.33(f)(3), COL applicants must submit the financial qualification information described in 10 CFR 50.33(f)(1). In each review of a COL application based on the AP1000 design, the Commission determined that the applicants met the NRC requirements for financial qualification. You have not provided specific, credible information that demonstrates the existence of a nexus between Westinghouse's bankruptcy and the financial capability of any AP1000 licensee or applicant and that warrants further inquiry. Furthermore, in the contested proceeding on Turkey Point Units 6 and 7, the Atomic Safety and Licensing Board Panel

considered and ultimately dismissed a contention raising the same issue as your petition—Westinghouse's bankruptcy and its effect on the applicant's financial qualifications.

During the second teleconference, you provided three documents that discuss cancellation or delays of AP1000 projects and whether State utility regulators should allow licensees to charge customers for the costs of cancelled or delayed projects. You also made verbal statements about the issues discussed in these articles. These and other issues associated with proceedings before a State utility regulator are outside the NRC's regulatory jurisdiction and are not credible supporting bases for your request.

Finally, in the second teleconference, you made several statements about the NRC's licensing review of Turkey Point Units 6 and 7. You asserted that the NRC should not grant the license, and you provided several criticisms of the NRC's EIS for Turkey Point Units 6 and 7. For example, you questioned the accuracy of the NRC EIS and asserted that the NRC did not consider certain issues in the EIS. These asserted deficiencies in a staff document associated with a licensing action are not bases for taking enforcement action against a licensee or applicant. In addition, these statements relate to environmental issues and are not within the scope of your 10 CFR 2.206 petition, which concerns Westinghouse's bankruptcy and financial qualifications of AP1000 licensees and applicants.

In conclusion, the PRB has decided that your 10 CFR 2.206 petition should be rejected for the reasons discussed above. If you have any questions, please contact Manny Comar at Manny.Comar@nrc.gov or at 301-415-3863.

Sincerely,

/RA/

Anna H. Bradford, Deputy Director
Division of New Reactor Licensing
Office of New Reactors

SUBJECT: THOMAS SAPORITO, SENIOR CONSULTANT, SAPRODANI ASSOCIATES, PROVIDES 2.206 PETITION SEEKING ENFORCEMENT ACTION AGAINST THE FLORIDA POWER & LIGHT COMPANY RE: PROPOSED CONSTRUCTION AND LICENSED OPERATION OF TURKEY POINT NUCLEAR STATION UNITS 6 & 7, DATED JANUARY 8, 2018.

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