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October 15, 1985

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

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BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

OFFICE OF SECRETARY
OF LICENSING & SAFETY

In the Matter of)	
FLORIDA POWER & LIGHT COMPANY)	Docket Nos. 50-250 OLA-1
(Turkey Point Plant, Units 3 and 4))	50-251 OLA-1
		(Vessel Flux Reduction)

NRC STAFF RESPONSE TO LICENSEE'S SECOND
MOTION FOR SUMMARY DISPOSITION OF CONTENTION (d)

I. INTRODUCTION

On October 7, 1983, the NRC published in the Federal Register a notice of consideration of the issuance of amendments to the facility licenses for the Turkey Point Plant and offered an opportunity for a hearing on the amendments. 48 Fed. Reg. 45862. The amendments concern operational limits associated with the vessel flux reduction program for the new optimized fuel assemblies (OFA) with wet annular burnable absorber (WABA) rods. By Order of May 16, 1984, the Licensing Board admitted the Center for Nuclear Responsibility, Inc. and Joette Lorion (Intervenors) and two of their proffered contentions.

On August 10, 1984, Florida Power & Light Company (Licensee) filed motions for summary disposition of Contentions (b) and (d), accompanied by separate statements of material facts as to which it is asserted there is no genuine issue to be heard for each contention, and a single Memorandum of Law. By Order dated August 16, 1985, the Licensing Board granted Licensee's August 10, 1984 motion for summary disposition of Contention (b)

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and denied summary disposition of Contention (d) because it found that three issues remain for litigation. On September 20, 1985, the Licensee filed a second motion for summary disposition of Contention (d), accompanied by a statement of material facts as to which it is asserted there is no genuine issue to be heard and an affidavit. For the reasons set forth below, the Staff supports the Licensee's motion.

II. DISCUSSION

A. Legal Standards for Summary Disposition

The Staff has previously set forth the applicable legal standards which govern motions for summary disposition in its September 4, 1984 Response to the Licensee's Motions for Summary Disposition of Contentions (b) and (d) (at 2-3). To avoid needless repetition, that entire discussion is incorporated herein by reference. Briefly, the movant must demonstrate that there is no genuine issue as to any material fact and that it is entitled to a decision as a matter of law. 10 C.F.R. § 2.749(d). The Licensee's motion satisfies this standard.

B. Licensee's Motion

Contention (d) asserts that the reduction in the departure from nucleate boiling ratio (DNBR) from 1.3 to 1.17 will both significantly reduce the margin of safety and significantly increase the probability of a serious accident. In denying the Licensee's previous motion for summary disposition of Contention (d), the Board identified three issues as to the material facts which remain for litigation.

1. Whether the DNBR of 1.17 which the amendments impose on the OFA fuel in Units 3 and 4 compensates for the three uncertainties outlined by the Staff in its December 23, 1983 SER on the amendments, at 4.
2. Whether, if the DNBR of 1.17 does not compensate for those uncertainties, the SRP's 95/95 standard, or a comparable one, is somehow satisfied.
3. Whether, if that standard is not being satisfied, the reduction in the margin of safety has been significant.

Order at 64. The Staff has read the Licensee's statement of material facts regarding Contention (d) and agrees that those facts demonstrate that there are no genuine factual issues to be litigated as to this contention. See Affidavit of Yi-Hsiung Hsii (attached). Specifically, in response to the three issues set forth in the Board's Order, the Staff concludes the following.

First, the DNBR limit of 1.17 is the specified acceptable fuel design limit imposed on the WRB-1 correlation to ensure there is a 95% probability with 95% confidence level (95/95) that the hot rod in the core does not experience a departure from nucleate boiling (DNB). Id. at 2-6. A DNBR of 1.17 does not include the uncertainties applied to the plant specific analysis. Id. at 4-6. The uncertainties associated with rod bow (5.5 percent), the hydraulics of the transitional mixed core (3 percent), and the application of the WRB-1 correlation (2 percent) were accounted for in the Licensee's predictive analysis used to calculate minimum DNBR by assuring that the calculated minimum DNBR of 1.34, when penalized or reduced by 10.5 percent for the three uncertainties, was greater than the DNBR fuel design limit of 1.17. Id. at 6-8.

Second, the 95/95 standard set forth in the Standard Review Plan (SRP) (NUREG-0800, Section 4.4) is met for both Low Parasitic (LOPAR)

and OFA fuel with the respective DNBR limits of 1.3 and 1.17. Id. at 2-4, 6-9. The 95/95 standard is satisfied for the contested amendments because the calculated minimum DNBR of 1.34, compensates for the three uncertainties which were not among the assumptions included in the input to the DNBR predictive analysis, by providing a 12.7 percent margin between the calculated minimum DNBR of 1.34 and the 95/95 DNBR fuel design limit of 1.17. Id. at 6-8.

Third, there has been no significant reduction in a safety margin because the application of a DNBR of 1.17 satisfies the 95/95 standard and provides the same degree of assurance as a DNBR of 1.3 for the W-3 correlation. Id. at 8-9. Furthermore, the calculated minimum DNBR, even when penalized for uncertainties totalling 10.5 percent, is greater than the 1.17 DNBR design limit and more than meets the 95/95 standard. Id.

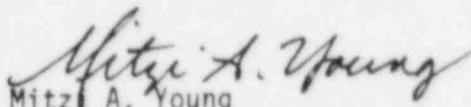
In short, because (1) a DNBR design limit of 1.17 ensures with a 95 percent probability at a 95 percent confidence level that DNB will not occur during normal operation and anticipated operational occurrences and (2) the calculated minimum DNBR of 1.34, when penalized for uncertainties, is greater than 1.17, there is no reduction in the margin of safety provided by the SRP's 95/95 standard. Accordingly, summary disposition of this contention should be granted.

III. CONCLUSION

Because there is no genuine issue as to any material fact as to the contention and inasmuch as a decision in favor of Licensee is required

as a matter of law, the Staff supports the Licensee's motion for summary disposition of Contention (d).

Respectfully submitted,


Mitzel A. Young
Counsel for NRC Staff

Dated at Bethesda, Maryland
this 15th day of October, 1985