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DOCKET NUMBER
PROD. & UTIL. FAC. 50-250/251 (2.206)

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

July 12, 1989

DOCKETED
JUL 14 1989
DOCKETING & SERVICE BRANCH
SECY-NRC

Mr. Thomas J. Saporito, Jr.
1202 Sioux Street
Jupiter, Florida 33458

Dear Mr. Saporito:

This letter is in response to your submittal of a request for action by the Nuclear Regulatory Commission (NRC) with regard to Turkey Point Nuclear Station that was filed on December 21, 1988, and supplemented by letters of January 13 and 30, February 7, and April 25 and 26, 1989. These submittals are referred to hereafter as the Petition.

In the Petition, you allege that the Turkey Point plant has continuously demonstrated poor maintenance, poor leadership, poor quality improvement, unprofessional operator behavior, and the inability of management to resolve these concerns. In addition, you allege procedural deficiencies, poor training, discrimination against and harassment of employees that resulted in a severe chilling effect on reporting safety concerns, and the willful falsification and destruction of safety-related plant documents. In the Petition, you request that the Florida Power & Light Company (the licensee) not be permitted to bring the Turkey Point Unit 3 and Unit 4 reactors critical until the licensee completes an internal safety investigation and the NRC completes a safety investigation relating to the concerns contained in the report of December 5, 1988, that you filed with the NRC Region II office. You further request that the operating licenses for Units 3 and 4 be immediately suspended and revoked, that an escalated civil penalty be imposed on the licensee for discrimination and harassment, and that an Order be issued outlining steps to be taken to correct problems.

In letters dated January 30, March 6, and April 14, 1989, I informed you that the Petition had been referred to my office for consideration pursuant to 10 CFR §2.206, that a preliminary review of the concerns filed under 10 CFR §2.206 indicated no immediate need to keep the Turkey Point Units 3 and 4 shut down, and that a formal decision would be issued in the reasonably near future.

The NRC is also concerned that performance has not met expectations. We believe a more effective implementation of the Turkey Point improvement program is needed by the site and by senior management. Additional management attention is necessary in order to attain an accelerated rate of improvement. The Florida Power & Light Company was notified of this concern in a letter from V. Stello, Jr. to J. J. Hudiburg dated May 26, 1989. However, for the

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reasons set forth in the enclosed Partial Director's Decision under 10 CFR §2.206, with the exception of two issues raised in the petition, your request has been denied. Those two issues, which involve (1) a chilling effect on reporting safety concerns as a result of discrimination and harassment, and (2) the falsification and destruction of documents, are still under investigation. When the investigation is complete, the NRC will determine whether any action is appropriate with regard to these two issues.

In your April 26 submittal, you express concern regarding what you believe is the failure of NRC headquarters to take appropriate enforcement action and request a meeting regarding this concern. As you are aware this matter is under investigation by the Office of the Inspector General for whatever action is deemed appropriate.

A copy of the Partial Director's Decision will be referred to the Secretary for the Commission's review in accordance with 10 CFR §2.206. For your information, I also have enclosed a copy of the notice regarding this Partial Director's Decision, which has been filed with the Office of the Federal Register for publication.

Sincerely,

Thomas E Murley

Thomas E. Murley, Director
Office of Nuclear Reactor Regulation

Enclosures:
1. Partial Director's Decision 89-05
2. Federal Register Notice

cc w/enclosures:
See next page
Licensee

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DD-89-05

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

OFFICE OF NUCLEAR REACTOR REGULATION

Thomas E. Murley, Director

DOCKETED
JUL 14 1989
DOCKETING & SERVICE BRANCH
SECY-NRC

In the Matter of )
)
FLORIDA POWER & ) Docket Nos. 50-250
LIGHT COMPANY ) and 50-251
)
(Turkey Point Nuclear Station, )
Units 3 and 4) )
) (10 CFR 2.206)

PARTIAL DIRECTOR'S DECISION UNDER 10 CFR 2.206

INTRODUCTION

On December 21, 1988, Thomas J. Saporito, Jr., submitted a request pursuant to 10 CFR 2.206 that the NRC take certain actions with regard to the Turkey Point Nuclear Station, Units 3 and 4. The request of December 21, 1988, was supplemented by five later submittals dated January 13 and 30, February 7, April 25 and 26, 1989. These six documents were referred to the Office of Nuclear Reactor Regulation for consideration pursuant to 10 CFR 2.206. The documents will be jointly referred to herein as the Petition.

The Petition requests the NRC to (1) keep Turkey Point Units 3 and 4 shut down until Florida Power & Light Company (FPL, the licensee) completes an internal safety investigation and the NRC completes an investigation of allegations provided by Mr. Saporito to the NRC Region II office on December 5, 1988; (2) immediately suspend and revoke the operating licenses for Units 3 and 4; (3) issue a notice of violation and impose an escalated civil penalty on the licensee because of discrimination and harassment, and (4) immediately issue an order outlining the steps to be taken to correct problems with security, operations, maintenance, plant equipment, and employee/operator training deficiencies.

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As a basis for his requests, the petitioner makes numerous assertions. Broadly summarized, these are that the licensee has demonstrated and/or experienced: (1) poor maintenance, (2) poor leadership, (3) poor "quality improvement,"[1] (4) unprofessional operator behavior, (5) poor training, (6) procedural deficiencies, and (7) security problems. Mr. Saporito also cites a severe chilling effect on reporting safety concerns as a result of discrimination against and harassment of employees, the willful falsification and destruction of safety-related plant documents, and the licensee's inability to address and resolve these problems effectively. In addition to the Petition, numerous additional letters were submitted by Mr. Saporito which urged the NRC to implement the requests in his Petition.

In support of his assertions, Mr. Saporito refers to numerous documents that, in his view, have identified problems with the facility. Many of these documents are simply listed without further explanation as to the concerns these documents have identified. To the extent that Mr. Saporito has stated his purpose for citing these documents, the staff has factored the information provided into this Decision. However, to the extent that Mr. Saporito has not provided the factual basis for his request with the specificity required by 10 CFR §2.206, action need not be taken with regard to the alleged findings of these documents. See, e.g., Philadelphia Electric Co. (Limerick Generating Station, Units 1 and 2), DD-85-11, 22 NRC 149, 154 (1985).

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[1] Mr. Saporito does not explain what he means by "quality improvement." For the purpose of this Decision, the staff has interpreted this term to encompass Mr. Saporito's claims regarding the licensee's quality assurance and assertions that the licensee has failed to correct long-standing problems in its program, which has resulted in a generally poor enforcement history.

By letter dated January 30, 1989, I acknowledged receipt of Mr. Saporito's Petition. In that letter, I explained that a preliminary review of the concerns raised in the Petition did not indicate any immediate need to keep the Turkey Point Units 3 and 4 shut down, since the concerns did not identify any new information that was not already being addressed by the licensee and the staff, or of which the staff was not aware. A notice was published in the Federal Register on February 6, 1989 (54 FR 5708) indicating that the Petitioner's request was under consideration.[2] By letter dated February 1, 1989, the licensee was asked to respond to the Petition. In its response, dated March 15, 1989, the licensee stated that, for the most part, the items referred to in statements made by Mr. Saporito involved information already addressed by the NRC and FPL, do not raise any safety concerns, are so vague as to preclude meaningful response, or are demonstrably untrue, and that the relief requested in the Petition should be denied.

With the exception of two issues raised in the Petition, the NRC staff review of the Petition is now complete. Those two issues, which were also submitted as allegations to the Region II office, are still under investigation and allege that there has been (1) a chilling effect on reporting safety concerns as a result of discrimination and harassment and (2) a willful falsification and

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[2] A letter to Thomas J. Saporito, Jr., from Thomas E. Murley, Director, Office of Nuclear Reactor Regulation dated April 14, 1989, acknowledged receipt of additional submittals by Mr. Saporito. In that letter, Mr. Saporito was informed that the NRC would not separately acknowledge receipt of any future letters he might submit regarding suspension/revocation of the Turkey Point licenses.

destruction of safety-related documents. When the investigation is complete, the NRC will determine whether any action is appropriate to take with regard to these two issues. With regard to the remaining issues raised by the Petitioner, for reasons stated in this partial decision, the Petitioner's requests are denied.

## BACKGROUND

The NRC staff has been concerned about the performance of the Turkey Point plant for a number of years. This has been evidenced by an increasing number (and magnitude) of civil penalties that peaked in 1986 and 1987, issuance of several NRC orders for specific improvements, below-average ratings and identification of areas needing improvement in the NRC systematic assessments of licensee performance (SALPs), a high level of NRC inspection effort, and the inclusion of Turkey Point on the NRC list of plants to be monitored more closely. Over the years the NRC staff has identified and documented specific issues of concern. For example, the most recent SALP report identified maintenance and operations as areas needing improvement. In two of the three most recent SALP reports, training has been rated below average. In the confirmatory order issued by the NRC on October 19, 1987, management concerns were identified and an independent management appraisal was ordered. Also, in that confirmatory order, the operator professionalism issue was recognized and a management-on-shift (MOS) program was ordered. The need for improved plant procedures was recognized in a confirmatory order dated July 13, 1984, and the licensee initiated a broad-scoped

procedures upgrade program. A subsequent confirmatory order dated August 12, 1986, was issued, superseding the order of July 13, 1984, to expand the scope of requirements to include certain other items.

In response to these concerns, the licensee has made many improvements. In the past few years, several hundred million dollars worth of improved facilities and equipment have been added at Turkey Point, such as a new maintenance facility, a new training building with a plant-specific simulator, and new steam generators. The licensee is currently in the process of adding two new safety-related emergency electric power generators, a major safety enhancement, at an additional cost of about 80 million dollars. Reliability of equipment has been enhanced by adding many preventive maintenance and surveillance procedures for plant equipment. Extensive changes in management have been made, bringing in new experienced personnel in key positions and adopting an improved management philosophy. In 1988, the plant set site records for continuous operation, with no major operational events. The number and magnitude of civil penalties also has decreased markedly since 1987. Although the improvements noted above have been made, and I believe the plant to be safer today than before the improvements were made, the NRC is still dissatisfied with Turkey Point's performance. The many program, management and hardware changes implemented at Turkey Point have not resulted in plant performance on a par with NRC expectations. We intend to continue to monitor the operation of the plant closely until it is clear that the plant is operating well and can be expected to continue to do so.

On December 5, 1988, Mr. Saporito provided the NRC Region II office with a number of allegations that he refers to in support of his subsequent requests. Nearly all of these allegations were referred to the licensee in a letter from

the NRC staff dated January 6, 1989. The licensee responded to these allegations in a letter dated February 24, 1989. An NRC special inspection was conducted to follow up on these allegations. The inspection team reviewed the licensee's response in conjunction with the followup inspection of the allegations. Although 43 of the allegations were substantiated, the inspection team concluded that the allegations raised no new safety issues that had not been previously addressed. See inspection report 50-250/89-13 and 50-251/89-13 dated May 8, 1989.

Subsequently, on March 3 and 15, 1989, a second group of maintenance-related allegations was provided to the NRC Region II office by Mr. Saporito. These were very similar in substance to the earlier maintenance-related allegations. These allegations were sent to the licensee for response on April 12, 1989. The NRC staff has reviewed these allegations and has concluded that the second group of allegations had little safety significance and will notify Mr. Saporito of our findings on them under separate cover.

## DISCUSSION

For the purposes of the discussion below, the Petitioner's major areas of concern (which were described earlier in the introduction to this decision) have been separated into three categories: (1) poor maintenance, leadership, quality improvement, unprofessional behavior, and inability of management to resolve these problems; (2) procedural deficiencies and poor training; and (3) poor security. As noted above, the two remaining issues, relating to a chilling effect on reporting safety concerns as a result of discrimination and harassment and willful falsification of documents, are still under investigation.

(1) Poor Maintenance, Leadership, Quality Improvement, Unprofessional Behavior, and Inability of Management to Resolve Problems

The Petitioner alleges that Turkey Point Station has demonstrated poor maintenance practices, poor leadership, poor "quality improvement" (i.e., poor quality control and a poor enforcement history), unprofessional operator behavior, and a lack of suitable management expertise to properly address and resolve these concerns. In support of these assertions, the Petitioner refers to the Enercon Services Inc. report, which was an independent management appraisal that identified five root causes of performance deficiencies to be inadequate leadership, inadequate sense of personal accountability, lack of sufficient technical support, inadequacies in key support systems, and a lack of a strong sense of leadership in the operations department, which in his view fails to "demand excellence" from other departments. The Petitioner also refers to the findings of the systematic assessment of licensee performance (SALP) report dated February 7, 1985 for the period July 1, 1983, through October 31, 1984 (50-250/85-01 and 50-251/85-01), and the most recent SALP report dated September 13, 1988 (50-250/88-15; 50-251/88-15) for the period June 1, 1987, through June 30, 1988, which rated the maintenance area Category 3 and had many adverse findings that the Petitioner lists. The Petitioner also asserts that because of problems, including maintenance, the licensee has been unable to bring Unit 3 on line since early December 1988. Finally, the Petitioner asserts that conduct of maintenance performed on the Unit 3 thimble guide tube assemblies departed from safety-related procedures. In his view, the licensee's zeal to return these nuclear units to operation resulted in "rush work" and a severe accident may well have resulted from this maintenance activity.

With respect to the Petitioner's concern about poor maintenance, the NRC staff has recognized the need for improvement in this area as evidenced by a low SALP rating in three of the last four SALP periods, including the most recent one. However, a low SALP rating does not mean a plant is unsafe but that the NRC believes improvements should be made by the licensee. Partly because of aging plant equipment, a good maintenance program is especially important to ensure a well-run plant. In bimonthly management meetings with the licensee since 1987, the NRC staff has continually focused on the need for maintenance improvements. The licensee has added a new maintenance building in 1988, has significantly increased the ratio of preventive maintenance to corrective maintenance activities over the past year, and has markedly reduced the number of green tags (signifying maintenance needs) in the control room. A special NRC maintenance inspection was conducted in December 1988 and Inspection Report 50-250/88-32; 50-251/88-32 was issued on April 4, 1989. This report concluded that a satisfactory maintenance program had been developed, but that its implementation is poor. An improving trend was noted, stemming from changes in management's approach to maintenance and from newly instituted programmatic changes. The recent focus at the site on improving the spare parts program, combined with other improvements in the maintenance program such as management changes in the maintenance organization and a higher level of staffing, should assist in improving the overall reliability of plant equipment. Although a number of maintenance-related allegations were presented to our Region II office by the Petitioner, Inspection Report 50-250/89-13; 50-251/89-13 dated May 8, 1989, presented the results of a special inspection of those allegations, which indicated that no significant safety concerns were found that would justify shutting down the plant.

The Petitioner also cited an instance of maintenance error in performing work on the Unit 3 thimble guide tube assemblies, as noted above, and attributes it to rush work. Our inspection efforts indicate the error occurred because of carelessness by a worker. Although the guide tube to be repaired was well marked, and details of the repair work to be performed had been discussed with the worker, he proceeded to begin work on the wrong guide tube. The mistake was considered to result from an unacceptable implementation of work controls, and the worker was dismissed from employment by the licensee.

With respect to Petitioner's concerns about unprofessional operator behavior, this concern was raised by the NRC staff in 1987 and documented in Inspection Report 50-250/87-44; 50-251/87-44, dated December 9, 1987. Although unprofessional behavior was found not to be pervasive at the site, there were isolated instances identified and reported in the inspection report. One such instance involved an unlicensed person manipulating a control under the supervision of a licensed operator, in violation of NRC regulations. This event was identified by the licensee, although the licensee did not respond with action in a timely manner. The NRC responded with high level discussions with the licensee which resulted in NRC conducting continuous control room observations over an extended period. Since that concern was raised, the licensee has appointed a new Plant Manager, a new Operations Superintendent, and several new operations shift supervisors. In addition, a number of newly-trained operators have been added, while some previous operators have been removed from on-shift duty. As a result the NRC staff believes the quality of the operations staff has improved. A new guidance document for professional behavior was prepared for control room operators and committed to by them. Control room operators have begun wearing uniforms in an effort to establish pride in their position and teamwork. As

part of the confirmatory order of October 19, 1987, a management-on-shift (MOS) program was implemented in late 1987 to monitor operations. This program was conceived by the licensee and included a number of independent managers and personnel, experienced in control room operations, who served on shift in a monitoring capacity. Because of the operational improvements already implemented and under way, the NRC granted approval for the licensee to terminate the MOS program on January 20, 1989.

With respect to the Petitioner's concerns about management issues, such as poor leadership, poor quality improvement, and the inability of management to address and resolve concerns, the NRC staff recognized the need for improved management at Turkey Point several years ago. In its confirmatory order dated October 19, 1987, the NRC staff confirmed the licensee's commitment to cooperate in an independent management appraisal (IMA) of the licensee's corporate and Turkey Point organizations. This appraisal was carried out by Enercon Services Inc. and issued as a report dated April 18, 1988. The issues noted above were identified in the IMA along with numerous recommendations. The licensee's formal response to the IMA was dated August 15, 1988. However, actions to deal with the management problems began earlier. Widespread management changes were made throughout the organization at corporate headquarters and at the Turkey Point site, bringing in new leadership from outside the licensee's organization in several important positions, including a new site Vice President in mid-1987, a new Operations Superintendent in October 1987, a new Senior Vice President-Nuclear in January 1988, a new Plant Manager in May 1988, and a new site Vice President in May 1989. Also, in early 1989, a new Maintenance Superintendent and a new Security Director were appointed. In the licensee's response to the

IMA, numerous actions were identified to address and resolve the issues identified in the IMA. Many of these actions have already been implemented, while some are ongoing, including setting goals and communicating them to employees, defining job requirements and matching them with skilled people, and establishing performance measures. Quality improvement information, such as trends in radiation exposures and plant performance indicators, is updated on a monthly basis and provided to top management.

The NRC staff is continuing to monitor the licensee's implementation of the numerous IMA recommendations. We believe the IMA effort and the licensee's response so far have resulted in some performance improvements. For example, both units have operated in 1988 with few problems, the number and severity of civil penalties has decreased significantly from the high levels of 1986 and 1987, and an improved and more professional attitude can be seen at the site, especially in operations. There are still problems to be overcome at the plant, but progress has been and is being made.

(2) Procedural Deficiencies and Poor Training

The Petitioner raises concerns with regard to the training of personnel and with procedures. He claims that these problems also have been part of the reason that the licensee has been unable to bring Unit 3 on line since early December 1988. In support of his allegations in these areas, he refers to NRC Inspection Report 50-250/85-32; 50-251/85-32. This report had indicated that there were no administrative controls or technical specification requirements in place to ensure the availability of the non-safety grade standby feedwater system. The report further stated that, with regard to the safety-related

nitrogen system, it cannot be assumed that control room operators would shift the flow control valves from automatic to manual mode within 6-7 minutes following an accident because (1) some operators were trained to assume that they had 15 to 20 minutes to take action, and (2) applicable emergency procedures did not include requirements for the operators to shift the flow control valves to manual. The Petitioner also asserts that the licensee has a well-documented history involving departures from approved procedures that have resulted in escalated enforcement actions.

With respect to procedural deficiencies, there are two basic reasons for such deficiencies: (1) the procedures themselves need improvement, and (2) the procedures are not adhered to strictly. The latter problem is a management/ training issue that is expected to improve as the management and training improvements continue to take effect. The need for improved procedures at Turkey Point was recognized by the NRC staff in the early 1980's. After discussions between NRC and the licensee, the licensee proposed a major performance enhancement program (PEP) in a letter to the NRC Region II office dated April 11, 1984. In confirmatory orders issued by the Commission on July 13, 1984, and August 12, 1986, the PEP program was made a requirement. One facet of PEP was a procedures upgrade program.

As part of the procedures upgrade program, a major upgrade was made to procedures for technical specification surveillances. Many added surveillances/ procedures were developed to permit operators to more closely monitor the performance of their equipment. Already-existing surveillance procedures were revised and improved. Additional preventive maintenance procedures were added. The NRC staff believes that this effort produced a significant enhancement to

safe plant operation. Other procedural improvements include: the adoption of the writers guide for procedures prepared by the Institute of Nuclear Power Operations (INPO); the consideration of human factors when developing procedures; required walkdowns of new procedures, where appropriate; and the implementation of upgraded emergency operation procedures in response to NRC requirements that were developed after the accident at Three Mile Island. The NRC staff recognizes that significant additional improvements are still needed with respect to procedures at the plant. However, the licensee has made considerable progress, and the procedure upgrade process is an activity expected to continue for the life of a plant (at all plants) and can proceed while the plant operates.

With respect to training at Turkey Point, a new Training Superintendent, who is experienced in operations, was appointed in mid-1987. The training staff was augmented at that time by about 15 contractor personnel who had previously held senior reactor operator licenses. In addition, the non-operator training changed from a self-teach program to include classroom instruction. The training staff has now increased to nearly 80 personnel from fewer than 60 in early 1987. The licensee's increasing recognition of the importance of training has led to larger classes of trainees than existed a few years ago. The addition of a new training facility in late 1986, including a recently added plant-specific simulator, represents an improved training capability and is expected to result in a stronger operational staff over the long term. Even with the improvements noted, the NRC staff believes further near-term progress is needed, especially in the implementation of improvements already identified by the licensee. This was evidenced by recent unsatisfactory performance on NRC administered requalification examinations. Following these exams, extensive retraining and NRC

monitored re-examination were administered. The licensee has recently outlined steps which are expected to lead to a satisfactory training program. For example, simulator training will be increased, emergency plan criteria will be designed into the simulator scenario guides, and instructors will be retrained and evaluated. The staff has been closely monitoring the licensee's progress in this area.

With respect to certain findings in Inspection Report 50-250/85-32; 50-251/85-32 cited by the Petitioner, these findings were published in 1985 and do not reflect the current state of the plant. Corrective actions were taken years ago. For example, for the non-safety grade standby feedwater system, administrative controls, such as periodic testing and limited allowable outage time for the pumps, have been in place for several years to ensure the availability on demand of this system. As another example, for the safety-related nitrogen system, the licensee responded on October 1, 1986, to an NRC notice of violation. The licensee stated that procedures had been revised and operators trained for proper shifting of the auxiliary feedwater flow control valves from automatic to manual. This was inspected and closed by the NRC in inspection report 50-250/88-14 and 50-251/88-14 dated July 29, 1988 which found that these items had been satisfactorily resolved.

(3) Poor Security

Finally, the Petitioner alleges weaknesses in the licensee's security program, as evidenced by what he describes as a continuing number of violations in this area. In this connection, the Petitioner refers to a number of enforcement actions taken against the licensee, as well as the SALP report for the period June 1, 1987 through June 30, 1988, which assessed the licensee's performance in this area at a Category 3.

The Petitioner has provided no new information regarding security weaknesses. Instead he cites various reports issued by the NRC or to the NRC. These were all considered in our performance assessment process (SALP) and formed part of the basis for a SALP Category 3 rating in the area of security. Where significant violations of regulations have occurred, civil penalties have been imposed to encourage the licensee to improve in specific areas. The licensee has continued to increase its security staff, restructure the management, and add system improvements. The NRC is continuing to require further improvements. However, the security violations cited by the Petitioner do not represent a breakdown of the plant security which poses a significant threat to the public health and safety, or that would justify shutting down the plant. A plant security system has many redundant and diverse features so that security is not compromised when one feature weakens.

## CONCLUSION

The Petitioner seeks the suspension and revocation of the operating licenses for the Turkey Point facility pursuant to 10 CFR 2.202. In addition the Petitioner asks that Units 3 and 4 not be permitted to restart until the licensee and the NRC staff complete investigations of allegations provided to NRC on December 5, 1988. The Petitioner further requests that an escalated civil penalty be imposed upon the licensee for discrimination against and harassment of employees and that NRC immediately issue an order outlining the steps to be taken to correct problems with security, operations, maintenance, plant equipment, and employee/operators training deficiencies.

The institution of proceedings pursuant to 10 CFR §2.202 is appropriate only where substantial health and safety issues have been raised. See Consolidated Edison Company of New York (Indian Point, Units 1, 2 and 3), CLI-75-8, 2 NRC 173, 176 (1975) and Washington Public Power System (WPPSS Nuclear Project No. 2), DD-84-7, 19 NRC 899, 923 (1984). This is the standard that has been applied to determine whether the actions requested in the Petition are warranted.

For the reasons discussed above, no substantial basis was found for taking the actions requested in the Petition. Rather, based upon the identification and pursuit of concerns by the NRC staff and the progress and improvements made by the licensee in its efforts to resolve these concerns, it is concluded that no substantial health and safety issues have been raised by the Petition. Accordingly, the Petitioner's request for action pursuant to 10 CFR §2.202, except for the remaining two open issues, is denied. As provided in 10 CFR §2.206(c), a copy of this decision will be filed with the Secretary for the Commission's review.

When the NRC staff investigation of the issues of a severe chilling effect on reporting safety concerns as a result of discrimination and harassment and of the willful falsification and destruction of safety-related documents is complete, I will further review the Petitioner's 10 CFR §2.206 request with regard to these two issues and determine whether any action is appropriate.

FOR THE NUCLEAR REGULATORY COMMISSION

Thomas E Murley

Thomas E. Murley, Director
Office of Nuclear Reactor Regulation

Dated at Rockville, Maryland
this 12th day of July 1989.

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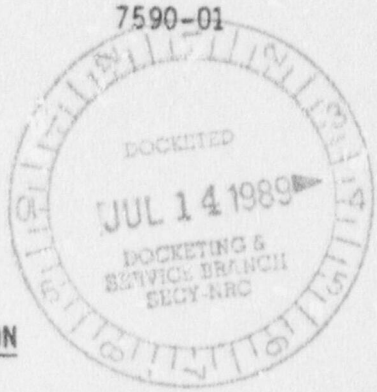


UNITED STATES NUCLEAR REGULATORY COMMISSION

FLORIDA POWER & LIGHT COMPANY

TURKEY POINT PLANT, UNITS 3 AND 4

DOCKET NOS. 50-250 AND 50-251

NOTICE OF ISSUANCE OF PARTIAL DIRECTOR'S DECISION

Notice is hereby given that the Director, Office of Nuclear Reactor Regulation, has issued a partial decision concerning a request filed pursuant to 10 CFR §2.206 by Mr. Thomas J. Saporito, Jr., which asked the NRC to (1) keep Turkey Point Units 3 and 4 shut down until Florida Power & Light Company (the licensee) completes an internal safety investigation and the NRC completes an investigation of the allegations provided by Mr. Saporito to the NRC Region II office on December 5, 1988, (2) immediately suspend and revoke the operating licenses for Turkey Point Units 3 and 4, (3) issue a notice of violation and impose an escalated civil penalty on the licensee because of discrimination and harassment, and (4) immediately issue an order outlining the steps to be taken to correct problems with security, operations, maintenance, plant equipment, and employee/operator training deficiencies.

The Director of the Office of Nuclear Reactor Regulation has determined that, with the exception of two issues raised in the Petition, the Petition should be denied. These two issues, which involve (1) a chilling effect on reporting safety concerns as a result of discrimination and harassment, and (2) the falsification and destruction of documents, are still under investigation. When the investigation is complete, the NRC will determine whether any action is appropriate with regard to these two issues. The reasons for this decision are

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explained in the Partial Director's Decision Under 10 CFR §2.206, DD-89-05, which is available for public inspection in the Commission's Public Document Room, 2120 L Street, N.W., Washington, DC and at the Local Public Document Room at the Environmental and Urban Affairs Library, Florida International University, Miami, Florida.

A copy of the partial decision will be filed with the Secretary for the Commission's review in accordance with 10 CFR §2.206(c). As provided in this regulation, the partial decision will constitute the final action of the Commission, except for the remaining two open issues, 25 days after issuance, unless the Commission, on its own motion, institutes review of the partial decision within that time period.

Dated at Rockville, Maryland, this 12th day of July 1989.

FOR THE NUCLEAR REGULATORY COMMISSION

Thomas E Murley

Thomas E. Murley, Director
Office of Nuclear Reactor Regulation

Mr. Victor Stello, Jr.
Executive Director for Operations
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

April 25, 1989

FAXED & Cerfified
(P 982 346 224)

RE: 10 CRF 2.206 - Turkey Point Nuclear Stations
Dockets Nos. 50-250/50-251 Operating Licensee DPR-31 & DPR-41

Please be advised and officially informed as this letter represents formal notification to your office requesting specific actions pursuant to 10 CRF 2.206 (by your office) as delineated below and appropriately warranted as elaborated in the basis and justification text of this official petition.

SPECIFIC REQUEST:

Take immediate actions to cause the imposition of an escalated civil penalty.

Take immediate actions to cause the suspention of operating licenses DPR-31 and DPR-41.

Take immediate actions to cause an order to your licensee outlining the required steps and measures to be taken within a defined time frame to correct the numerous security and safeguards problems at the plant.

BASIS & JUSTIFICATION:

April 21, 1987...(EA 87-040) A civil penalty was proposed for numerous examples of access control violations. The civil penalty was escalated because of prior poor performance and prior notice based on internal reports of similar problems.

April 22, 1987...U.S. NRC News Release...The Nuclear Regulatory Commission staff has proposed a $75,000 civil penalty against the Florida Power & Light Company for alleged noncompliance with NRC security requirements at the Turkey Point Nuclear Plant, located near Homestead, Florida.

The NRC said the action was taken after an NRC resident inspector found a security guard asleep at his post, and a second incident in which a NRC inspector from the agency's Region II office in Atlanta discovered a visitor without an escort in a vital area.

In a letter to the company, Dr. J. Nelson Grace, Administrator of the NRC's Region II office in Atlanta, said the violations were 'of particular concern' because reviews of records during subsequent inspections 'confirmed the occurrence of six additional instances of security personnel being found asleep and identified eight additional instances where visitors were discovered without an escort.' Grace called the company's attention to the repetitious nature of the violations, saying they demonstrate a lapse in management control and indicate an apparent weakness in the company's employee training for security at Turkey Point.

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BASIS & JUSTIFICATION:

June 1, 1987 - June 30, 1988...(SALP) Systematic Assessment of Licensee Performance...Weaknesses in the security program have continued to prevail in this SALP period as indicated by the number of violations.

Seven violations were identified during this rating period.

Severity Level III violation for failure to maintain positive access control, six examples:

failure to adequately control access to the protected area;

failure to adequately control access to the Unit 4 containment personnel hatch;

failure to adequately control access to the Unit 3 containment hatch;

officer sleeping in defensive tower;

failure to adequately control access to the protected area;

and an officer leaving a vital area compensatory post without proper relief.

The violations continue to be repetitive in nature,

involving a failure of the guard force to implement the security program,

an inability of security personnel and supervisors to recognize violations and

a lack of management oversight.

These violations included escalated enforcement in the areas of

access control
compensatory measures
and the control of Safeguards Information.

BASIS & JUSTIFICATION:

June 1, 1987 - June 30, 1988...(SALP) continued from previous page.

Severity Level III violation for failure to recognize, properly mark and protect Safeguards Information.
Severity Level IV violation for inadequate protected area lighting.
Severity Level IV violation for inadequate search of vital area prior to revitalization.
Severity Level IV violation for inadequate compensatory measure.
Severity Level IV violation for inadequate protected area barriers.
Severity Level IV violation for inadequate vital area alarm testing.

S A L P RATING...3 for the reporting period.

July 28, 1987...(EA 87-089) a civil penalty was escalated because of continued poor performance, and we emphasized the continuing need for increased management involvement in oversight and control of the security program.

Febuary 11, 1988...(EA 87-179) a civil penalty was proposed for access control violations. The civil penalty was escalated due to continued poor performance and the number of violations. In that letter, we noted that FPL's Security Enhancement Program had failed to adequately address the security problems at Turkey Point.

January 20, 1989...at 4:00 am a security guard was observed sleeping at her post.

Febuary 1, 1989...$100,000 Civil Penalty...This violation is significant in that it demonstrates a lack of awareness of vital areas and vital area boundaries by the security force and a lack of management oversight for security force operations. The base value of a civil penalty for a Severity Level III violation is $50,000. The escalation and mitigation factors were considered, and the base civil penalty amount has been increased by 100% due to your continued poor performance in the area of security...you must clearly understand that a continuation of this level of performance cannot be tolerated...Should additional significant security violations occur, we intend to consider action in addition to civil penalties.

Febuary 6-10, 1989...inspection...The violations described in the enclosed Notice are similar to violations contained in the Notice sent to you by our letter dated Febuary 11, 1988. Because 'similar violations,' as described in the NRC Enforcement Policy, are of significant concern to the NRC, please give particular attention in your response to the identification of the root cause of these problems and your corrective action to prevent recurrence. We are concerned about the implementation of your security program that permits these repetitive violations to occur.

April 20, 1989...Licensee notified the NRC of a tower guard sleeping while on duty at the Turkey Point Nuclear Plant.

**BASIS & JUSTIFICATION:**

Because the voluminous inspection documentation and escalated civil penalties for violations in the areas of security and safeguards of which numerous violations in these areas were repetitive;

and because these escalated civil penalties have not been a determent that your licensee acknowledges to correct these poor performing areas;

and because of the continuing poor performance in the area of security and safeguards;

and because of the investigative security material which was FAXED to your NRC Region II office on 4/25/89 relating to Turkey Point;

I submit to you and the NRC Commissioners that immediate enforcement action beyond that which the NRC has (previously exercised in the form of escalated civil penalties), is justified and warranted as I believe that the Health and Safety of the Public is currently in jeopardy and will remain in jeopardy until the suspention of the Turkey Point Nuclear Plant Operating Licenses DPR-31 & DPR-41 occurs.

CONCLUSIONS:

I respectfully request a written response pursuant to 10 CFR 2.206 and in addition, I respectfully request my voice to be heard before the Honorable Nuclear Regulatory Commissioners in that I may apprise the Commissioners of the very grave conditions currently existing at the Turkey Point Nuclear Station.

Sincerely,

Thomas J. Saporito, Jr.

cc: U.S. President George Bush
U.S. Senator John Breaux
Congressman Dante B. Fascell
Govenor Bob Martinez, Fl
U.S. NRC Region II, Oscar de Miranda
ALL MEDIA SOURCES

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