

September 15, 2020

Executive Director for Operations
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

Sent via Email
and U.S. Mail First Class

**SUPPLEMENTAL REQUEST FOR NRC ENFORCEMENT ACTION AGAINST
NEXTERA ENERGY AND FLORIDA POWER & LIGHT CO.
PURSUANT TO 10 CFR 2.206 DATED SEPTEMBER 14, 2020**

This Request for NRC Enforcement Action is submitted by Thomas Saporito (hereinafter "Petitioner") – a former employee at the NextEra Energy - Florida Power and Light Company (FPL) Turkey Point Nuclear Plant (TPN) – (hereinafter Licensee) in 1988.

§ 2.206 REQUESTS FOR ACTION UNDER THIS SUBPART.

- (a) Any person may file a request to institute a proceeding pursuant to § 2.202 to modify, suspend, or revoke a license, or for any other action as may be proper. Requests must be addressed to the Executive Director for Operations and must be filed either by hand delivery to the NRC's Offices at 11555 Rockville Pike, Rockville, Maryland; by mail or telegram addressed to the Executive Director for Operations, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001; or by electronic submissions, for example, via facsimile, Electronic Information Exchange, e-mail, or CD-ROM. Electronic submissions must be made in a manner that enables the NRC to receive, read, authenticate, distribute, and archive the submission, and process and retrieve it a single page at a time. Detailed guidance on making electronic submissions can be obtained by visiting the NRC's Web site at <http://www.nrc.gov/site-help/e-submittals.html>; by e-mail to MSHD.Resource@nrc.gov; or by writing the Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001. The request must specify the action requested and set forth the facts that constitute the basis for the request. The Executive Director for Operations will refer the request to the Director of the NRC office with responsibility for the subject matter of the request for appropriate action in accordance with paragraph (b) of this section.
- (b) Within a reasonable time after a request pursuant to paragraph (a) of this section has been received, the Director of the NRC office with responsibility for the subject matter of the request shall either institute the requested proceeding in accordance with this subpart or shall advise the person who made the request in writing that no proceeding will be instituted in whole or in part, with respect to the request, and the reasons for the decision.
- (c)(1) Director's decisions under this section will be filed with the Office of the Secretary. Within twenty-five (25) days after the date of the Director's decision under this section that no proceeding will be instituted or other action taken in whole or in part, the Commission may on its own motion review that decision, in whole or in part, to determine if the Director has abused his discretion. This review power does not limit in any way either the Commission's supervisory power over delegated staff actions or the Commission's power to consult with the

staff on a formal or informal basis regarding institution of proceedings under this section.

(2) No petition or other request for Commission review of a Director's decision under this section will be entertained by the Commission.

(3) The Secretary is authorized to extend the time for Commission review on its own motion of a Director's denial under paragraph (c) of this section.

[39 FR 12353, Apr. 5, 1974, as amended at 42 FR 36240, July 14, 1977; 45 FR 73466, Nov. 5, 1980; 52 FR 31608, Aug. 21, 1987; 53 FR 43419, Oct. 27, 1988; 64 FR 48948, Sept. 9, 1999; 68 FR 58799, Oct. 10, 2003; 69 FR 2236, Jan. 14, 2004; 69 FR 41749, July 12, 2004; 70 FR 69421, Nov. 16, 2005; 72 FR 33386, Jun. 18, 2007; 74 FR 62679, Dec. 1, 2009; 80 FR 74978, Dec. 1, 2015]

10 CFR 110.62

(a) In response to an alleged violation, described in 110.60, the Commission may institute a proceeding to revoke, suspend, or modify a license in issuing an order to show cause:

- (1) Stating the alleged violation and proposed enforcement action; and
- (2) Informing the licensee of his right, within 20 days or other specified time, to file a written answer and demand a hearing.
 - (b) An answer consenting to the proposed enforcement action shall constitute a waiver by the licensee of a hearing and of all rights to seek further Commission or judicial review.
 - (c) The order to show cause may be omitted and an order issued to revoke, suspend, or modify the license in cases where the Commission determines that the violation is willful or that the public health, safety, or interest so requires.

PETITIONER REQUESTS THE FOLLOWING ENFORCEMENT ACTION AGAINST THE LICENSEE

- Petitioner requests that the NRC institute a show cause proceeding pursuant to 10 CFR 2.202 and 10 CFR 110.62 to modify, suspend, or revoke the Licensee's operational licenses for the Turkey Point Nuclear Plant and the St. Lucie Nuclear Plant.
- Petitioner requests that the NRC take appropriate actions to cause the immediate shut down of the operating nuclear reactors at the Turkey Point Nuclear Plant and at the St. Lucie Nuclear Plant
- Petitioner requests that the NRC take appropriate enforcement action against the Licensee and issue a civil monetary penalty against the Licensee in the amount of \$5-Million Dollars.
- Petitioner requests that the NRC issue an Order prohibiting J.H. Goldberg, President, Nuclear Division employed at the Licensee in May 20, 1994, from engaging or participating in any and all NRC licensed activities for a period of no less than 5-years; and that the NRC issue a monetary civil penalty against J.H. Goldberg in the amount of \$500,000.00.

BASIS AND JUSTIFICATION

§ 50.5 Deliberate misconduct.

(a) Any licensee, applicant for a license, employee of a licensee or applicant; or any contractor (including a supplier or consultant), subcontractor, employee of a contractor or subcontractor of any licensee or applicant for a license, who knowingly provides to any licensee, applicant, contractor, or subcontractor, any components, equipment, materials, or other goods or services that relate to a licensee's or applicant's activities in this part, may not:

(1) Engage in deliberate misconduct that causes or would have caused, if not detected, a licensee or applicant to be in violation of any rule, regulation, or order; or any term, condition, or limitation of any license issued by the Commission; or

(2) Deliberately submit to the NRC, a licensee, an applicant, or a licensee's or applicant's contractor or subcontractor, information that the person submitting the information knows to be incomplete or inaccurate in some respect material to the NRC.

(b) A person who violates paragraph (a)(1) or (a)(2) of this section may be subject to enforcement action in accordance with the procedures in 10 CFR part 2, subpart B.

(c) For the purposes of paragraph (a)(1) of this section, deliberate misconduct by a person means an intentional act or omission that the person knows:

(1) Would cause a licensee or applicant to be in violation of any rule, regulation, or order; or any term, condition, or limitation, of any license issued by the Commission; or

(2) Constitutes a violation of a requirement, procedure, instruction, contract, purchase order, or policy of a licensee, applicant, contractor, or subcontractor.

[63 FR 1897, Jan 13, 1998]

LICENSEE'S DELIBERATE ACTS OF MISCONDUCT, WILLFULL WRONGDOING, AND DISCRIMINATION

In a 2.206 Petition dated September 14, 2020 the Petitioner detailed and described Licensee conduct by employee at the time relevant – J.H. Goldberg as shown below.

WILLFULL AND INTENTIONAL MISCONDUCT BY J.H. GOLDBERG TO MISLEAD AND MISLEAD THE NRC FROM TAKING ENFORCEMENT ACTION AGAINST THE LICENSEE

In a letter dated May 20, 1994 – J.H. Goldberg, President, Nuclear Division for the Licensee – authored and constructed a letter and “Memorandum In Response To March 7, 1994 10 CFR 2.206 Petition and March 23, 1994 Supplement Thereto Filed By Thomas J. Saporito, Jr. (See, NRC ADAMS ML17352A612) – Mr. Goldberg states in relevant part that:

“ . . . FPL's policy is to direct employees to report safety concerns to their immediate supervisor or to a higher management individual, or to report them through the company's employee concern program. As an alternative, employees are also advised that they can report any concerns to the NRC.

In this case, Mr. Saporito, in November, 1988, openly announced that he had safety concerns, but refused to tell licensee management the nature of those concerns. Therefore, licensee management specifically directed Mr. Saporito to immediately report his concerns to the NRC. Despite his present assertions, the fact is that Mr. Saporito did not report his claimed safety concerns to either FPL or the NRC at the time FPL directed him to do so. He therefore effectively precluded either FPL or the NRC from evaluating the significance of those concerns from an operational safety perspective in a timely way. . . ." (See, May 20, 1994 letter a p.2.

Petitioner avers he that J.H. Goldberg's statements to the NRC as described above and in [h]is May 20, 1994 letter to Mr. James Lieberman, Director, Office of Enforcement, United States Nuclear Regulatory Commission – are **false fabrications and not based on facts – but rather intended by Mr. Goldberg and the Licensee to missile and to mislead the NRC from taking significant enforcement action requested by the Petitioner in 1994 via 2.206 Petitions submitted by Petitioner at that time.**

This September 15, 2020 Supplemental 2.206 Petition serves to add the following **DELIBERATE MISCONDUCT AND WILLFULL MISCONDUCT** by the Licensee via Mr. Goldberg as follows - Mr. Goldberg stated in writing to the NRC in the above decribed May 20, 1994 letter that:

"FPL's policy is to direct employees to report safety concerns to their immediate supervisor or to a higher management individual, or to report them throught the company's employee concern program. As an alternative, employees are also advised that they can report any concerns to the NRC. (See letter at p.2.)

Mr. Goldberg's stated comments to NRC Jame Lieberman are **pure fabrication and totally false and intended to missile and mislead the NRC from taking significant enforcement action against the Licensee as requested by the Petitioner at that time via 2.206 Petitions.** Notably, the Licensee did NOT have any employee concern program in place at the Turkey Point Nuclear Plant – nor did the Licensee direct employees to report safety concerns to their immediate supervisor or to a higher management individual. Indeed, the Petitioner none-the-less did report nuclear safety concerns to [h]is immediate supervisor and to to higher management and senior management and documented nuclear safety concerns in plant work orders (PWOs). Each time the Petitioner raised and identified nuclear safety concerns, the Licensee retaliated against the Petitioner. Thus, the Petitioner observed a NRC Form-3 and sent NRC Oscar DeMiranda Petitioner's nuclear safety concerns.

SUMMARY

NRC regulations and requirements under 10 CFR Part 50 and under numerous other implementing NRC regulations and authority prohibit wrongdoing, harassment, retaliation, and firing of employees – like Petitioner – who raise nuclear safety concerns. Moreover, NRC

regulations require their licensees to be truthful and factual when they communicate to the NRC about licensed activities and operations at their nuclear facilities.

In this instance – Petitioner avers that the Licensee via Mr. Goldberg **deliberately and willfully misled and misled the NRC in fabrication of mis-statements and lies in a May 20, 1994 – letter to NRC James Lieberman as described herein.**

The NRC is mandated by Congress to protect public health and safety by taking significant enforcement actions against licensees – like NextEra Energy and FPL – for intentionally misleading the NRC about licensed activities which could impact the health and safety of the public. Thus, the NRC cannot have any measure of reasonable certainty that any statements or assertions made by the named Licensee herein are accurate or factual.

The **specific wrongdoing issues brought in the instant supplemental 2.206 Enforcement Petition have NOT previously been addressed by the NRC Petition Review Board (PRB)** and are therefore properly brought at this time – as there is NO time limit which prevents the NRC from taking enforcement action against a licensee in such matters.

Respectfully submitted,



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