

June 30, 2003

Mr. Thomas Saporito, Executive Director  
National Environmental Protection Center  
Post Office Box 1173  
Jupiter, Florida 33458

Dear Mr. Saporito:

Your petition dated May 6, 2003, and addressed to the U.S. Nuclear Regulatory Commission (NRC), Executive Director for Operations, has been referred to the Office of Nuclear Reactor Regulation pursuant to Title 10, Code of Federal Regulations (10 CFR), Section 2.206 of the Commission's regulations. You requested that the NRC take the following specific actions with respect to the St. Lucie Unit 1 and 2 nuclear reactors operated by the Florida Power and Light Company:

Specific Request #1 - petitioner request that the NRC issue a confirmatory order requiring the immediate shut-down of both licensee reactors.

Specific Request #2 - petitioners request that the NRC deny the licensee's April 18, 2002 request for relief from NRC Order (EA-03-009) requiring specific inspections of the reactor pressure vessel ("RPV") head and associated penetration nozzles on the licensee's reactor vessels.

Specific Request #3 - petitioners request that the NRC hold public hearings before the agency's Atomic Safety and Licensing Board Panel ("ASLBP") to allow for the public's participation in ascertaining the safety implications which should be considered and explored concerning continued operations at the licensee's facility with respect to NRC Order (EA-03-009) and any effects that relaxing the inspection requirements of the agency's Order may have on the overall environment and public health and safety.

As the basis for your request, you stated the following:

Petitioners assert that NRC Order (EA-03-009) requires the licensee to take certain and specific inspection activities to ensure for the protection of the public's health and safety and the protection of the environment through continued operation of the licensee's reactors in a manner consistent with 10 C.F.R. Part 50. NEPC [National Environmental Protection Center] does not believe the licensee's basis for requesting the NRC to relax its aforementioned Order is sufficient to warrant such relaxation by the NRC. In deed, NEPC strongly believes that any

relaxation of the agency's Order would jeopardize public health and safety.

Petitioners believe that the NRC should issue an order to cause the immediate shut-down of both licensee reactors located at the Ft. Pierce facility to allow NRC and the licensee an opportunity to more fully and completely evaluate the condition of both reactor vessels in such a manner that will provide adequate assurance that an accident caused by degradation of the reactor vessels will not release radioactive materials or radioactive particles into the environment from a breach of the reactor containment structure as a direct or indirect result of a possible explosion cause by formation of hydrogen in an accident scenario much like the Three Mile Island event.

To the extent that the public has a right to participate in NRC matters concerning operations at the agency's licensee's facilities, the NRC should provide the public an opportunity to be heard before the ASLBP so that an accurate record may be developed and considered with respect to the licensee's request for relaxation of NRC's Order and to allow the introduction of evidence and testimony for proper consideration by NRC in making its determination in this matter accordingly.

Our petition review board has reviewed your submittal. The staff has concluded that your submittal does not meet the criteria for consideration under 10 CFR 2.206. In accordance with NRC Management Directive 8.11, "Review Process for 10 CFR 2.206 Petitions," the staff will review petitions if the request meets all of the following criteria:

The petition contains a request for enforcement-related action such as issuing an order modifying suspending, or revoking a license, issuing a notice of violation, with or without a proposed civil penalty, etc.

The facts that constitute the bases for taking the particular action are specified. The petitioner must provide some element of support beyond the bare assertion. The supporting facts must be credible and sufficient to warrant further inquiry.

There is no NRC proceeding available in which the petitioner is or could be a party and through which the petitioner's concerns could be addressed. If there is a proceeding available, for example, if a petitioner raises an issue that he or she has raised or could raise in an ongoing licensing proceeding, the staff will inform the petitioner of the ongoing proceeding and will not treat the request under 10 CFR 2.206.

The petition review board concluded that none of the requests in the petition meet the above criteria.

Specific Request #1 asked for enforcement-related action, but provided no bases for enforcement action and no new safety issues were raised.

Specific Request #2 did not request enforcement action. It requested the NRC to deny the licensee's request for relaxation from Order EA-03-009. Section IV.F of Order EA-03-009 states that requests for relaxation from the Order will be evaluated using the procedure for evaluating proposed alternatives to the American Society of Mechanical Engineers Code in accordance with 10 CFR 50.55a(a)(3).

Specific Request #3 did not request enforcement action. It requested the NRC to hold public hearings before the ASLB regarding the safety implications of the request for relaxation. Consistent with the Order, the safety implications were reviewed in accordance with 10 CFR 50.55a and are documented in the NRC staff's safety evaluation dated May 29, 2003, (ADAMS Accession Number ML031500489). Although Section V of the Order provided an opportunity for any person adversely affected by the Order to request a hearing and to provide reasons why the Order should not have been issued, the deadline for requesting a hearing has expired.

The NRC staff plans no further action in response to your request. Thank you for bringing these issues to the attention of the NRC.

Sincerely,

*/RA/*

Ledyard B. Marsh, Acting Director  
Division of Licensing Project Management  
Office of Nuclear Reactor Regulation

Docket Nos. 50-335 and 50-389

Enclosure: NEPC 2.206 Request

cc: See next page

Specific Request #2 did not request enforcement action. It requested the NRC to deny the licensee's request for relaxation from Order EA-03-009. Section IV.F of Order EA-03-009 states that requests for relaxation from the Order will be evaluated using the procedure for evaluating proposed alternatives to the American Society of Mechanical Engineers Code in accordance with 10 CFR 50.55a(a)(3).

Specific Request #3 did not request enforcement action. It requested the NRC to hold public hearings before the ASLB regarding the safety implications of the request for relaxation. Consistent with the Order, the safety implications were reviewed in accordance with 10 CFR 50.55a and are documented in the NRC staff's safety evaluation dated May 29, 2003, (ADAMS Accession Number ML031500489). Although Section V of the Order provided an opportunity for any person adversely affected by the Order to request a hearing and to provide reasons why the Order should not have been issued, the deadline for requesting a hearing has expired.

The NRC staff plans no further action in response to your request. Thank you for bringing these issues to the attention of the NRC.

Sincerely,

/RA/

Ledyard B. Marsh, Acting Director  
Division of Licensing Project Management  
Office of Nuclear Reactor Regulation

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