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Electronic Tracking System

General Information

Lead Assignee: NRR

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Other Assignees:

SECY Due Date:

Other Parties:

Subject: 2.206 - Seeking Enforcement Action Against Florida Power and Light Company and NextEra Energy, Inc.

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CC Routing:

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Response / Package:

Other Information

Cross Reference

SRM\Other: No

Process Information

Action Type: 2.206 Review

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OCM Concurrence: No

Special Instructions:

OCA Concurrence: No

Document Information

Originator Name: Thomas Saporito

Date of Incoming: 09/30/2012

Originator Org: Saprodani
Associates

Document Received by OEDO Date: 10/02/2012

Date Response Requested by
Originator:

Addressee: Annette Vietti-Cook, SECY

Incoming Task: E-mail

OEDO POC: Dan Merzke

Template: EDO-001

E-RIDS: EDO-01

OFFICE OF THE SECRETARY
CORRESPONDENCE CONTROL TICKET

Date Printed: Oct 01, 2012 10:08

PAPER NUMBER: LTR-12-0554

LOGGING DATE: 10/01/2012

ACTION OFFICE: EDO

AUTHOR: Thomas Saporito

AFFILIATION: FL

ADDRESSEE: NRCExecSec

SUBJECT: Petition under 10 C.F.R. Section 2.206 Seeking Enforcement Action Against Florida Power and Light Company and Nextera Energy, Inc.

ACTION: Appropriate

DISTRIBUTION: RF

LETTER DATE: 10/01/2012

ACKNOWLEDGED No

SPECIAL HANDLING: 2.206 Petition

NOTES:

FILE LOCATION: ADAMS

DATE DUE:

DATE SIGNED:

EDO --G20120748

Remsburg, Kristy

From: saporito3@gmail.com on behalf of Saprodani Associates [saprodani@gmail.com]
Sent: Sunday, September 30, 2012 10:23 AM
To: NRCExecSec Resource
Cc: Kugler, Andrew; Gody, Tony; Evans, Carolyn; Doyle, Daniel; Davenport, Patricia; Dimmick, Lisa; Jaczko, Gregory; Heller, James; Paige, Jason; Hamman, Jeffrey; Kim, James; Wert, Leonard; Sykes, Marvin; McCoy, Gerald; Checkle, Melanie; Ninh, Son; DeMiranda, Oscar; Whited, Ryan; Saba, Farideh; Kryk, Scott; Lingam, Siva; Tam, Peter; Thompson, Jon
Subject: Enforcement Petition Against FPL and NextEra Energy, Inc.
Attachments: 2012.10.01 - 2.206 Petition (FPL-Mark Hicks).pdf

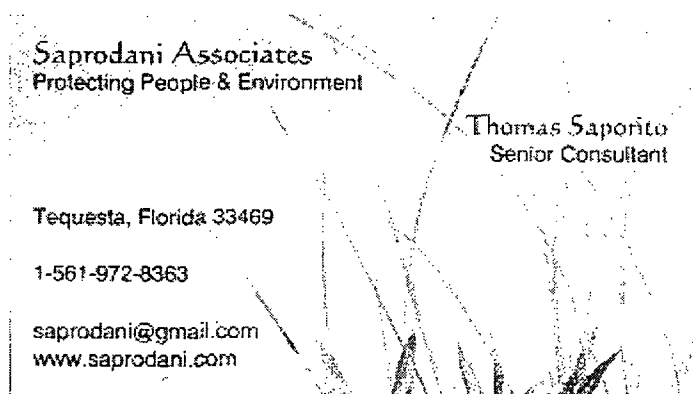
Ms. Cook:

Please provide the attached Enforcement Petition filed under 10 C.F.R. 2.206 against the Florida Power & Light Company and NextEra Energy, Inc. to the NRC Executive Director for Operations for processing.

The original petition - along with a CD containing a news video - is being sent via U.S. mail - due to the sized of the video file.

Should you have any questions regarding this matter, please do not hesitate to contact me at your convenience.

Kind regards,



**UNITED STATES NUCLEAR REGULATORY COMMISSION
BEFORE THE EXECUTIVE DIRECTOR FOR OPERATIONS**

In the Matter of:

**SAPRODANI ASSOCIATES, and
THOMAS SAPORITO**

DATE: 01 OCT 2012

Petitioner,

v.

**FLORIDA POWER AND LIGHT COMPANY
AND NEXTERA ENERGY, INC.**

Licensee.

**PETITION UNDER 10 C.F.R. §2.206 SEEKING ENFORCEMENT
ACTION AGAINST FLORIDA POWER AND LIGHT COMPANY
AND NEXTERA ENERGY, INC.**

NOW COMES, SaproDani Associates, by, through and with, Thomas Saporito, Senior Consultant for SaproDani Associates (hereinafter "Petitioner") and submits a "*Petition Under 10 C.F.R. §2.206 Seeking Enforcement Action Against the Florida Power and Light Company and NextEra Energy, Inc.*" ("FPL" "NEE" or "licensee"). For the reasons stated below, the U.S. Nuclear Regulatory Commission (NRC) should grant the Petition as a matter of law:

NRC HAS JURISDICTION AND AUTHORITY TO GRANT PETITION

The NRC is the government agency charged by the United States Congress to protect public health and safety and the environment related to operation of civilian commercial nuclear reactors in the United States of America (USA). Congress charged the NRC with this grave responsibility in creation of the agency through passing the Energy Reorganization Act of 1974 (ERA). In the instant action, the above-captioned entity(s) is/are collectively and singularly a "licensee" of the NRC and subject to NRC regulations and authority under 10 C.F.R. §50 and under other NRC regulations and authority in the operation of one or more nuclear reactors. Thus, through Congressional action in creation of the agency; and the fact that the named-actionable party identified above by Petitioner is collectively and singularly a licensee of the NRC, the agency has jurisdiction and authority to grant the Petition.

STANDARD OF REVIEW

A. Criteria for Reviewing Petitions Under 10 C.F.R. §2.206

The staff will review a petition under the requirements of 10 C.F.R. §2.206 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 basis 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 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 C.F.R. §2.206.

B. Criteria for Rejecting Petitions Under 10 C.F.R. §2.206

- The incoming correspondence does not ask for an enforcement-related action or fails to provide sufficient facts to support the petition but simply alleges wrongdoing, violations of NRC regulations, or existence of safety concerns. The request cannot be simply a general statement of opposition to nuclear power or a general assertion without supporting facts (e.g., the quality assurance at the facility is inadequate). These assertions will be treated as routine correspondence or as allegations that will be referred for appropriate action in accordance with MD 8.8, "Management of Allegations".
- The petitioner raises issues that have already been the subject of NRC staff review and evaluation either on that facility, other similar facilities, or on a generic basis, for which a resolution has been achieved, the issues have been resolved, and the resolution is applicable to the facility in question. This would include requests to reconsider or reopen a previous enforcement action (including a decision not to initiate an enforcement action) or a director's decision. These requests will not be treated as a 2.206 petition unless they present significant new information.
- The request is to deny a license application or amendment. This type of request should initially be addressed in the context of the relevant licensing action, not under 10 C.F.R. 2.206.
- The request addresses deficiencies within existing NRC rules. This type of request should

be addressed as a petition for rulemaking.

See, Volume 8, Licensee Oversight Programs, Review Process for 10 C.F.R. Petitions, Handbook 8.11 Part III.

**REQUEST FOR ENFORCEMENT-RELATED ACTION TO MODIFY,
SUSPEND, OR REVOKE A LICENSE AND ISSUE A NOTICE OF
VIOLATION WITH A PROPOSED CIVIL PENALTY**

A. Request for Enforcement-Related Action

Petitioner respectfully requests that the NRC: (1) take escalated enforcement action against the above-captioned licensee(s) and suspend, or revoke the NRC license(s) granted to the licensee(s) for operation of any nuclear reactor or facility; (2) that the NRC issue a notice of violation with a proposed civil penalty against the licensee(s) in the total amount of \$1,000,000.00 (One-Million) dollars; and (3) that the NRC issue a Confirmatory Order to the licensee(s) requiring the licensee(s) to take their nuclear reactors and/or nuclear facilities to a "cold-shutdown" mode of operation until such time as:

1. The licensee completes an "*independent*" assessment to fully understand and correct the potential and/or realized threat posed by licensee's management in taking deliberate retaliation, harassment, and discriminatory actions against Mark Hicks - a former operations manager at the licensee's St. Lucie Nuclear Plant; and
2. The licensee completes an "*independent*" safety-culture-assessment through a 3rd party contractor to determine whether employees at all of the licensee's nuclear facilities feel free and are free to raise nuclear safety concerns to FPL management and/or the NRC without fear of retaliation; and
3. The licensee completes an "*independent*" safety-assessment through a 3rd party contractor to review of all plant nuclear safety related equipment and/or components (at all of the licensee's nuclear facilities) – to ensure that such nuclear safety related systems and/or components are able to perform their intended and designed safety function under 10 C.F.R. §50.

B. Facts That Constitute the Basis for Taking the Requested Enforcement-Related Action Requested by Petitioner

On September 20, 2012, CBS TV-12 News reported an interview with a former FPL operations manager - Mark Hicks - was fired from his position at the licensee's St. Lucie Nuclear Plant after [Hicks] fully complied with NRC regulations in refusing to continue the restart of a nuclear reactor - after notice that a safety valve associated with the reactor coolant system was leaking. Hicks has retained legal counsel and has filed a whistleblower legal action against the licensee in these circumstances. *See, enclosed video CD. Also see.*

http://www.cbs12.com/news/top-stories/stories/vid_2318.shtml

This is not the first instance where the licensee has fired - or otherwise retaliated - against one or more of its in-house or contractor employees after reporting perceived nuclear safety concerns to FPL management. Notably, the NRC has been impotent over the years to reduce the number of anonymous nuclear safety complaints raised by FPL employees secretly to the NRC because the employees fear retaliation by FPL management. The failure of the NRC and FPL in these circumstances jeopardizes public health and safety.

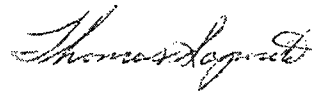
C. There Is No NRC Proceeding Available in Which the Petitioner is or Could be a Party and Through Which Petitioner's Concerns Could be Addressed

Petitioner avers here that there is no NRC proceeding available in which the Petitioner is or could be a party and through which Petitioner's concerns could be addressed.

CONCLUSION

FOR ALL THE ABOVE STATED REASONS, and because Petitioner has amply satisfied all the requirements under 10 C.F.R. §2.206 for consideration of the Petition by the NRC Petition Review Board (PRB), the NRC should grant Petitioner's requests made in the instant Petition as a matter of law.

Respectfully submitted,



Thomas Saporito, Senior Consultant
Saprodani Associates
6701 Mallards Cove Rd. APT 28H
Jupiter, Florida 33458
Email: saprodani@gmail.com
Telephone: (561) 972-8363

CERTIFICATE OF SERVICE

I HEREBY CERTIFY, that on this 1st day of October 2012, a copy of foregoing document was provided to those identified below by means shown:

Hon. William Borchardt
Executive Director for Operations
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555
{Sent via U.S. Mail and electronic mail}

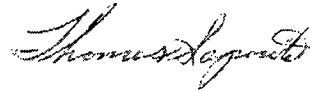
Melanie Checkle, Allegations Coordinator
U.S. Nuclear Regulatory Commission
Region II Headquarters
Atlanta, Georgia 30303
{Sent via electronic mail}

Hon. Allison M. Macfarlane, Chairman
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555
{Sent via electronic mail}

Oscar DeMiranda
Senior Allegations Coordinator
U.S. Nuclear Regulatory Commission
Region II Headquarters
Atlanta, Georgia 30303
{Sent via electronic mail}

Carolyn Evans, Dir. of Enforcement
U.S. Nuclear Regulatory Commission
Region II Headquarters
Atlanta, Georgia 30303
{Sent via electronic mail}

Local and National Media Sources



By: _____
Thomas Saporito
Senior Consultant



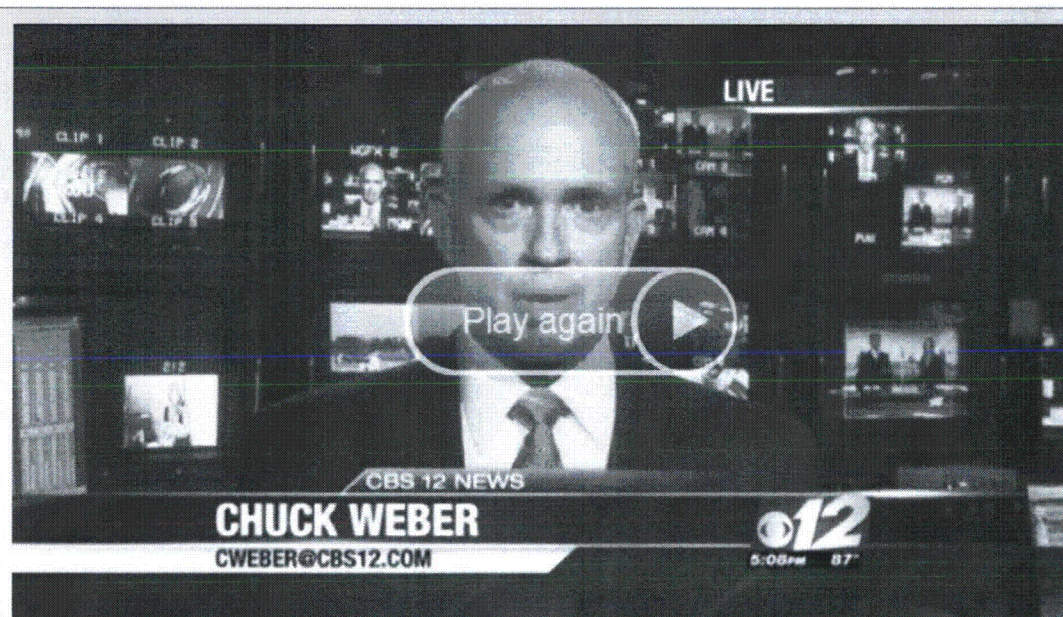
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Thursday,
September
20 2012,
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Nuclear Concerns? Former Employee Files Suit Against FPL

PORT ST. LUCIE, Fla. — A local man is taking on his former employer of Florida Power and Light. He's filed a whistleblower lawsuit against the company.

This stems from something that happened at the St. Lucie nuclear plant. The fired employee claims he was looking out for employees and the public while FPL was worried about its bottom line.

Mark Hicks is a former operations manager at FPL's St. Lucie nuclear power plant. Earlier this summer Hicks lost his job and has now filed this whistleblower lawsuit against FPL.

Hicks spoke with CBS 12 at his lawyers office in Ft. Lauderdale. He claims he was harassed and ultimately wrongly fired for standing up to company brass as workers restarted one of the St. Lucie reactors in 2009.

CBS 12's Chuck Weber spoke with Hicks about the dangers of restarting one of the reactors and filed this report.

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NEW YORK (AP) — Stocks notched their first gain of the week Thursday.

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