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AUTH.NAME AUTHOR AFFILIATION
 GIANFRANCECSO Florida Power & Light Co.
 RECIP.NAME RECIPIENT AFFILIATION
 MEYER, D.L. Rules & Directives Review Branch (Post 920323)

SUBJECT: Comment supporting amend to policy & procedure for NRC enforcement actions re treatment of severity level IV violations at power reactors. Util also endorses comments of NEI on revs.

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RECEIVED**MAR 09 1999***64 FR 6388***1999 MAR 16 AM 9:25****L-99-052***Feb. 9, 1999***RULES & DIR. BRANCH
US NRC***(2)*

Mr. David L. Meyer
 Chief, Rules and Directives Branch
 Division of Administrative Services
 Office of Administration
 Mail Stop T6D59
 U.S. Nuclear Regulatory Commission
 Washington, DC 20555

**Re: Florida Power & Light Company Comments
 Amendment to Policy and Procedure for NRC Enforcement Actions
 Treatment of Severity Level IV Violations at Power Reactors
 (64 Fed. Reg. 6388 (Feb. 9, 1999))**

Dear Mr. Meyer:

Florida Power & Light Company (FPL), the licensed operator of the St. Lucie Nuclear Plant, Units 1 and 2, and the Turkey Point Nuclear Plant, Units 3 and 4, hereby submits the following comments on the above-referenced revisions to the General Statement of Policy and Procedure for NRC Enforcement Actions (Enforcement Policy). FPL also endorses the comments of the Nuclear Energy Institute on the revisions to the Enforcement Policy.

In general, FPL endorses the amendment to the Enforcement Policy to the extent that it will reduce the number of Severity Level IV violations issued. FPL agrees with the Commission that the burden imposed by docketing responses to Severity Level IV violations, which are not safety significant issues, diverts licensee resources from higher priority issues with potentially greater safety significance.

Nonetheless, FPL has concerns regarding one aspect of the Enforcement Policy revision. FPL respectfully disagrees with the concept, as expressed in the Commission's Staff Requirements Memorandum dated January 22, 1999, and in the above-referenced Federal Register notice (64 Fed. Reg. at 6390) that Severity Level IV violations should be used to track licensee performance trends. FPL concurs with the view of the NRC Staff as stated in SECY-99-007, "Recommendations for Reactor Oversight Process Improvements," that "[e]nforcement actions taken . . . should not be an input into the assessment process." FPL believes that the mere fact that enforcement action has been pursued by the Staff is not an appropriate criterion for tracking licensee performance. The performance assessment process should be grounded in events and occurrences at nuclear plants, and not based on whether the Staff pursued enforcement action arising out of one of those facts or circumstances.

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Mr. David L. Meyer
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In this regard, FPL recommends that the Commission delete the third circumstance in which NRC will consider issuance of a Notice of Violation: "The violation is repetitive as a result of inadequate corrective action, and was identified by the NRC." FPL suggests that repetitive violations will be subject to appropriate regulatory scrutiny through the performance assessment process. In this connection, retention of this exception could result in enforcement and assessment to perform duplicative functions. FPL notes that this recommendation was also made by NRC Staff in Attachment 5 to SECY-99-007, and requests the Commission to reconsider the inclusion of this exception in the Enforcement Policy.

FPL appreciates the opportunity to comment on the changes to the Enforcement Policy. FPL also appreciates the continuing opportunity for dialogue between industry stakeholders and the NRC's Office of Enforcement on the overall NRC approach to enforcement matters.

Sincerely yours,

A handwritten signature in cursive script, appearing to read "R. John Gianfrancesco, Jr.", written in dark ink.

R. John Gianfrancesco, Jr.
Manager
Administrative Support and Special Projects

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