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 AUTH. NAME      AUTHOR AFFILIATION  
 PLUNKETT, T.F.      Florida Power & Light Co.  
 RECIP. NAME      RECIPIENT AFFILIATION  
 COLLINS, S.J.

SUBJECT: Modifies FPLs consent to confirmatory order to reflect resolution of four issues indentified as pending L-99-031.

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**FPL**

MAY 27 1999

L-99-116

Mr. Samuel J. Collins, Director  
Office of Nuclear Reactor Regulation  
U. S. Nuclear Regulatory Commission  
One White Flint North  
11555 Rockville Pike  
Rockville, MD 33408-0420

Subject: Turkey Point Units 3 and 4  
Docket Nos. 50-250 and 50-251  
Revised Consent to Confirmatory Order  
Modifying License on Thermo-Lag Commitments

By letter L-99-031, dated February 8, 1999, Florida Power and Light Company (FPL) provided its response to J. A. Zwolinski's letter dated January 29, 1999, consenting to a confirmatory order modifying the License with respect to Turkey Point Units 3 and 4. The purpose of this letter is to modify FPL's consent to a confirmatory order to reflect the resolution of the four issues identified as pending in L-99-031.

Florida Power and Light Company will comply with the following commitment with respect to Turkey Point Units 3 and 4 (reproduced in the attachment):

Florida Power and Light Company (FPL) shall complete final implementation of Thermo-Lag 330-1 fire barrier corrective actions at Turkey Point Plant, Units 3 and 4, described in the FPL submittal to the U.S. Nuclear Regulatory Commission (NRC) dated December 9, 1998, by December 31, 2001.

The resolution of any new Thermo-Lag corrective actions resulting from a potential Fire Protection Functional Inspection or the on-going Fire Protection Functional Inspection Self-Assessment at Turkey Point Units 3 and 4, are not considered part of this confirmatory order.

The above properly reflects FPL's commitments to implement Thermo-Lag 330-1 fire barrier corrective actions at Turkey Point Units 3 and 4.

FPL agrees to the incorporation of the above commitment in a confirmatory order modifying the Turkey Point Unit 3 license (DPR-31) and the Turkey Point Unit 4 license (DPR-41) that will be effective immediately upon issuance. FPL also recognizes that by signing below, FPL consents to the issuance of an immediately effective confirmatory order for Turkey Point Units 3 and 4 and, by doing so, pursuant to 10 CFR 2.202(a)(3), FPL will not have a right to request a hearing on all or any part of the Turkey Point Units 3 and 4 Confirmatory Order. However, it is FPL's position that this waiver of a right to a hearing is limited to the issuance of the specific Turkey Point Units 3 and 4 Order and does not extend to any future right to a hearing or to any other legal process that FPL might have concerning any other order, issuance or determination by the NRC, including, for example, any NRC determination that good cause has not been shown for the relaxation or rescission of the Turkey Point Units 3 and 4 Order. Moreover, it is FPL's position that, in the event FPL requests a hearing on the NRC's denial of a showing of good cause, the effectiveness of the above commitment will be suspended until the completion of the hearing.

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Additionally, consistent with the confirmatory order issued to Washington Public Power Supply System concerning Nuclear Project No. 2 dated March 25, 1998, as well as confirmatory orders issued to other licensees, FPL's acceptance is based on the premise that the Confirmatory Order for Turkey Point Units 3 and 4 will expressly provide that "The Director, Office of Nuclear Reactor Regulation, may relax or rescind, in writing, any provisions of this Confirmatory Order upon a showing by the Licensee of good cause." By way of example, and not by way of limitation, FPL considers a showing of good cause to include delays or disruptions which directly affect FPL's ability to satisfy the Turkey Point Units 3 and 4 Order and which result from unforeseeable conditions beyond the control of FPL, including, but not limited to, acts of God, labor difficulty, unavailability of materials, embargoes, or acts of governmental authorities, including changes in laws, regulations, licenses, or orders. Further, FPL believes that a showing of good cause would include such matters as the need to revise the completion date of the above commitment in order to perform other work because FPL determines that the safety significance of such work takes precedence over the above-described Thermo-Lag 330-1 modifications due to budget, resource, or space constraints.

Should there be any questions about this consent letter, please contact us.

Very truly yours,



T. F. Plunkett  
President  
Nuclear Division

OIH

Attachment

cc: Document Control Desk, Washington, D.C.  
Regional Administrator, Region II, USNRC  
Senior Resident Inspector, USNRC, Turkey Point



I, Thomas F. Plunkett, President, Nuclear Division, Florida Power and Light Company, hereby agree on behalf of Florida Power and Light Company that Florida Power and Light Company will comply with the following commitment:

Florida Power and Light Company (FPL) shall complete final implementation of Thermo-Lag 330-1 fire barrier corrective actions at Turkey Point Plant, Units 3 and 4, described in the FPL submittal to the U.S. Nuclear Regulatory Commission (NRC) dated December 9, 1998, by December 31, 2001.

The resolution of any new Thermo-Lag corrective actions resulting from a potential Fire Protection Functional Inspection or the on-going Fire Protection Functional Inspection Self-Assessment at Turkey Point Units 3 and 4, are not considered part of this confirmatory order.

FPL also agrees to incorporate this commitment into a Confirmatory Order Modifying License (Order) that will be effective immediately upon issuance. I recognize that by signing below, FPL consents to the issuance of an immediately effective Order incorporating the above commitment and, by doing so, pursuant to 10 CFR 2.202(a)(3), FPL will not have the right to request a hearing on all or any part of this Order.

Thomas F. Plunkett  
Thomas F. Plunkett, President Nuclear Division  
Florida Power and Light Company

5/27/99  
Date

