



L-2019-190

October 10, 2019

George A. Wilson
Director, Office of Enforcement
U.S. Nuclear Regulatory Commission
One White Flint North
11555 Rockville Pike
Rockville, MD 20852-2738

Subject: Reply to Notice of Violation (EA-18-066) and Payment of Civil Penalty
St. Lucie Nuclear Plant Unit 2
Docket No. 50-389
License No. NPF-16

Reference: Notice of Violation and Proposed Imposition of Civil Penalty - \$232,000 (NRC
Investigation Report Numbers 2-2017-024 and 2-2019-009), dated September 12,
2019

Pursuant to CFR 2.201, enclosed is the Reply to a Notice of Violation (EA-18-066) issued to Florida
Power & Light Company (FPL) on September 12, 2019.

FPL paid the \$232,000 civil penalty via Automated Clearinghouse (ACH) transaction on October 10,
2019.

No new commitments are contained in this letter.

Should you have any questions regarding this reply, please contact Mitch Ross, Vice President and
General Counsel, NextEra Energy Resources, at 561-691-7126.

A handwritten signature in blue ink that reads 'Don Moul'.

Don Moul
Vice President and Chief Nuclear Officer
Florida Power & Light Company

Enclosure

REPLY TO NOTICE OF VIOLATION (EA-18-066)
AND
PROPOSED IMPOSITION OF CIVIL PENALTY

VIOLATION:

During an NRC investigation completed on May 21, 2018, a violation of an NRC requirement was identified. In accordance with the NRC Enforcement Policy, the NRC proposes to impose a civil penalty pursuant to Section 234 of the Atomic Energy Act of 1954, as amended (Act), 42 U.S.C. 2282, and 10 CFR 2.205. The particular violation and associated civil penalty is set forth below:

10 CFR 50.7(a), states, in part, that "Discrimination by a Commission licensee, an applicant for a Commission license, or a contractor or subcontractor of a Commission licensee or applicant against an employee for engaging in certain protected activities is prohibited. Discrimination includes discharge and other actions that relate to compensation, terms, conditions, or privileges of employment." The protected activities are established in section 211 of the Energy Reorganization Act of 1974, as amended, and in general are related to the administration or enforcement of a requirement imposed under the Atomic Energy Act or the Energy Reorganization Act.

10 CFR 50.7(a)(1)(i), states, in part, that the protected activities include but are not limited to providing the Commission or his or her employer information about alleged violations of either of the statutes named in paragraph (a) introductory text of this section or possible violations of requirements imposed under either of those statutes.

A Florida Power and Light Regional Vice President – Operations deliberately discriminated against a Framatome (formerly known as Areva) contract employee for engaging in protected activity in March of 2017. Specifically, a contract employee who raised safety concerns during the St. Lucie refueling outage had a work assignment to Turkey Point Nuclear Plant cancelled shortly after submitting a condition report. The actions of FPL management were, in part, based on the contractor's engagement in a protected activity.

This is a Severity Level II violation (Enforcement Policy Section 2.2.1.d, 6.10).
Civil Penalty - \$232,000.

REASON FOR THE VIOLATION:

FPL does not contest the violation. The cause of the violation appears to be that FPL did not fully assess how the performance feedback to Framatome management by the former FPL Regional Vice President – Operations, which resulted in Framatome's reassignment of the contract employee, might be perceived by the contract employee and FPL and Framatome co-workers. Nonetheless, a condition report has been entered into the FPL Corrective Action Program to conduct a causal analysis to validate the cause. FPL acknowledges that the actions taken at the time did not meet FPL's standards, as reflected in the broad corrective steps FPL has taken to address safety culture and others aspects of the violation.

While FPL respectfully disagrees with aspects of the NRC's analysis in the Notice of Violation, FPL has elected not to contest the violation and to pay the civil penalty to bring this matter to a final conclusion.

CORRECTIVE STEPS THAT HAVE BEEN TAKEN AND THE RESULTS ACHIEVED:

FPL takes the violation of 10 CFR 50.7 very seriously and has taken a broad set of actions to address the subject violation and prevent recurrence of these types of events. The corrective steps broadly address safety culture, safety conscious work environment (SCWE), and review of employment actions involving contractors. Following is a summary of actions that have been taken, which were discussed during the pre-decisional enforcement conference:

- The FPL Employee Concerns Program (ECP) initiated an investigation upon learning of the retaliation concern on March 20, 2017. As part of the ECP review, a SCWE survey was conducted of members of the Framatome refueling support services crews. The SCWE survey found that the contract employees were aware of this issue but were willing to raise concerns.
- The former FPL Regional Vice President – Operations was counseled in June 2017 on recognition of risks in managing concerns with contractor performance, effective communications to elicit performance improvement, and the role of leadership in ensuring a SCWE.
- FPL conducted a SCWE survey in early 2019 of the St. Lucie and Turkey Point radiation protection departments, which included personnel who interacted with Framatome crews or may have been affected by the events. The survey found that employees are willing to raise concerns.
- A fleet-wide Chief Nuclear Officer (CNO) communication was issued in early 2019 to reinforce the existing SCWE policy and the freedom of all personnel to raise safety concerns without fear of retaliation. FPL also conducted training in early 2019 for senior nuclear managers on nuclear safety culture and SCWE to reinforce the need for a healthy nuclear safety culture.
- SCWE training was provided for supervisors, managers, alliance partner leadership, and contractor administrators focusing on use of the detection, prevention, correction method for proactive resolution of concerns.
- Training was provided for ECP personnel to improve issue identification, conduct of investigations, and report documentation.
- Onboarding training for outage personnel was evaluated to ensure personnel receive content on the corrective action program and the method for initiating Condition Reports.
- New safety culture surveys were conducted this summer at the St. Lucie and Turkey Point sites which included questions evaluating safety culture, including SCWE. The survey found that employees are willing to raise concerns.

CORRECTIVE STEPS THAT ARE ONGOING OR WILL BE TAKEN TO AVOID FURTHER VIOLATIONS:

The following actions and process improvements are ongoing to enhance performance related to the safety culture and SCWE aspects of this issue and prevent recurrence of the violation:

- A safety culture update is provided as a standing agenda item at each meeting of the Nuclear Committee of the NextEra Energy Inc. Board of Directors.
- A SCWE topic is included as a standing agenda item at each fleet Management Review Meeting (which include the NextEra/FPL senior nuclear management team). These actions have reinforced safety culture/SCWE as an overriding priority within the NextEra/FPL nuclear organization.
- A Personnel Action Review Board (PARB) process has been implemented, and PARB meetings conducted, to provide review of certain employment actions involving contractor personnel that are brought to FPL's attention. Recently, the need for chilling effect mitigation was identified for a contractor's adverse action and is being implemented.
- Third-party audits of the ECP are being enhanced, with the goal to improve issue identification and support for ECP reports and implementation of corrective actions.
- Nuclear Contingent Worker Training is being provided for certain FPL leadership that oversees contractor work involving radiological or safety related equipment focusing on SCWE and contractor performance management.

PLAN AND SCHEDULE FOR COMPLETING SHORT AND LONG TERM CORRECTIVE ACTIONS:

Actions to restore compliance are complete.

Long term corrective actions are described as standing agenda items or ongoing actions, above. Additional long term corrective actions, if any, will be entered into our Corrective Action Program, as appropriate. For the additional corrective actions listed above, the plan and schedule is below:

- As a result of personnel changes in our ECP, enhancements to third-party audits of the ECP will be implemented, and an audit conducted, by December 31, 2019 to allow such personnel to implement training learnings. Additional oversight has been provided in the interim.
- Nuclear Contingent Worker Training will be provided at FPL sites by December 31, 2019.

DATE WHEN FULL COMPLIANCE WILL BE ACHIEVED:

FPL is currently in full compliance.