



UNITED STATES  
NUCLEAR REGULATORY COMMISSION  
WASHINGTON, D.C. 20555-0001

September 11, 2020

Mr. Thomas Saporito  
9995 SE Federal Hwy UNIT 1763  
Hobe Sound, Florida, 33475

Dear Mr. Saporito,

On May 23, 2020, you submitted a letter addressed to the U.S. Nuclear Regulatory Commission's (NRC) Executive Director for Operations. The letter was referred to the Office of Nuclear Reactor Regulation pursuant to Section 2.206 of Title 10 of the *Code of Federal Regulations* (10 CFR). In your letter, you requested the issuance of a monetary civil penalty due to actions taken related to your dismissal by NextEra Energy – Florida Power and Light Company (NextEra, the licensee) in December 1988. Your letter asserts that you were discriminated against as a result of engaging in protected activities and that members of the licensee's staff participated in deliberate misconduct as part of those activities. In your correspondence you indicate that:

...the specific wrongdoing issues brought in instant enforcement Petition have NOT previously been addressed by the NRC Petition Review Board (PRB)...

The NRC staff notes that the proposed concerns are addressed in sworn testimony given in two hearings conducted by Administrative Law Judges (ALJs) with the Department of Labor (DOL). The DOL issued a final decision and order on December 17, 2004, which dismissed your complaint made under the whistleblower protection provision of the Energy Reorganization Act of 1974, as amended, for lack of merit. The information you cited in your most recent letter was information previously available to the DOL and the NRC.

Section III.C, "Criteria for Petition Evaluation," of NRC Management Directive 8.11, "Review Process for 10 CFR 2.206 Petitions," defines the criteria for accepting petitions for review under Section 2.206 of Title 10 to the *Code of Federal Regulations* (10 CFR). It indicates that for a previously raised issue to be accepted as a petition, one of the following circumstances should apply:

- the prior review did not resolve the issues raised by the petitioner, or
- the resolution of the issues in the prior review does not apply to the facts provided by the petitioner to support the requested action, or
- the petition provides significant new information that the staff did not consider in the prior review.

The NRC staff's screening finds that the prior reviews conducted, resolved the assertion that you were discriminated against as a result of engaging in protected activities. Both the DOL and the NRC have determined that your dismissal in 1988 by NextEra was not for engaging in protected activities.

The information provided in your May 23, 2020, submittal regarding deliberate misconduct was reviewed and, consistent with repeated findings made since your initial claim, found no evidence of deliberate misconduct. As such the NRC continues to find the issues related to your 1988 dismissal and associated deliberate misconduct assertions have been resolved.

Further, the NRC staff's screening identified that all the information provided originates from testimony taken during the DOL hearings. The testimony was available to the DOL and the NRC staff and was considered during the DOL hearings and subsequent reviews over the last 30 years by the NRC staff. The NRC continues to find that the previous resolution of these issues does apply to the facts provided in the most recent submittal, and therefore no significant new information was provided.

The NRC staff notes that a final determination regarding these issues was provided to you on several occasions including one issued explicitly regarding the employee protection assertions on April 11, 2005 (Agencywide Document Access and Management System (ADAMS) No. ML050970508). Additionally, in 2010 the NRC Chairman's Office reviewed the NRC staff's previous findings, and the results of the review was provided to you in a letter dated September 12, 2010 (ADAMS Accession No. ML092260310). The Chairman indicated that:

[t]he NRC Staff investigated your case at the time you made your original allegations and found no violation of NRC requirements. The Staff's decision not to pursue enforcement action against FPL is therefore consistent with NRC enforcement policy. The NRC Staff has also considered DOL's decisions on the complaint you filed with that agency against FPL. In its final decision, DOL found that no violation of the Energy Reorganization Act of 1974 had occurred... Accordingly, no further action needs to be taken by the NRC on this issue.

Since your release from NextEra/FPL in December 1988, you have provided the NRC with information regarding your assertion that you were discriminated against as a result of engaging in protected activities and that there was deliberate misconduct as part of that activity. In each instance, consistent with the form of the correspondence submitted, the NRC staff reviewed your assertions and responded accordingly. As indicated in previous correspondence to you regarding your dismissal and related assertions, the NRC staff continues to find that no basis exists for further review of your 10 CFR 50.5 and 50.7 assertions regarding this issue under the 10 CFR 2.206 petition process. The NRC considers this matter resolved.

If you have additional questions, please feel free to contact Ms. Eva Brown at (301) 415-2315.

Sincerely,

Craig G. Erlanger, Director  
Division of Operating Reactor Licensing  
Office of Nuclear Reactor Regulation

Docket Nos. 50-250 and 50-251

cc: Listserv

SUBJECT: LETTER TO MR. THOMAS SAPORITO REGARDING TURKEY POINT NUCLEAR PLANT, UNITS 3 AND 4 RETENTION OF EMPLOYEE PROTECTION CONCERN DATED SEPTEMBER 11, 2020

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\*by email

NRR-106

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