



**UNITED STATES
NUCLEAR REGULATORY COMMISSION**
REGION II
245 PEACHTREE CENTER AVENUE N.E., SUITE 1200
ATLANTA, GEORGIA 30303-1200

August 4, 2022

EA-07-321

Mr. Bob Coffey
Executive Vice President,
Nuclear Division and Chief Nuclear Officer
Florida Power & Light Company
700 Universe Blvd
Mail Stop: EX/JB
Juno Beach, FL 33408

SUBJECT: RESPONSE TO REQUEST FOR RESCISSION OF CONFIRMATORY ORDER
EA-07-321, ST. LUCIE NUCLEAR PLANT UNITS 1 AND 2

Dear Mr. Coffey:

This letter refers to your written request of December 3, 2021, (Agencywide Document and Management System (ADAMS) Accession No. ML21337A282) for rescission of Confirmatory Order EA-07-321, issued to Florida Power and Light Company's (FPL) St. Lucie Nuclear Plant, Units 1 and 2, on June 13, 2008, (ADAMS Accession No. ML081650261). The Confirmatory Order followed an alternative dispute resolution (ADR) session in 2008 during which FPL agreed to implement several corrective actions including enhancements to its Corrective Action Program (CAP), procedural revisions, training initiatives, and FPL fleet-wide initiatives. The corrective actions that FPL agreed to during the ADR session, which were captured in the Confirmatory Order, became legally binding requirements upon issuance of the Order.

The Confirmatory Order modified Operating License Nos. DPR-67 and NPF-16 (FPL's St. Lucie Nuclear Plant Units 1 and 2). Section V of the Confirmatory Order delineated several one-time and ongoing requirements. As FPL correctly notes, the Confirmatory Order specifies that the Regional Administrator, NRC Region II, is authorized to relax or rescind conditions of the Confirmatory Order upon a showing of good cause. FPL's letter of December 3, 2021, specifically requested rescission of Section V, items 4(a) through 4(l) of Confirmatory Order EA-07-321 and is based upon the information presented in Attachment 1 of FPL's letter.

NRC Inspection Report (IR) 05000335,389/2009402, issued on June 19, 2009 (ADAMS Accession No. ML091700651) documented the NRC's inspection results of FPL's implementation of Confirmatory Order EA-07-321. As noted in Section 4OA5 of the IR, no findings of significance were identified. Section V, items (a), (f), (k), and (l) of the Confirmatory Order are one-time activities. The NRC considers the documentation of these items in IR 05000335,389/2009402 to be sufficient such that a rescission of the Confirmatory Order is not necessary or warranted with respect to these one-time actions. As such, no further action regarding these one-time actions is needed.

For the remaining items of Section V of the Confirmatory Order (items V.(b), (c), (d), (e), (g), (h), (i), and(j)), FPL is requesting that these regulatory requirements be withdrawn, in favor of replacing them with new commitments. The NRC staff has reviewed the justifications provided by FPL to withdraw these requirements, as provided in the December 3, 2021, letter. We find that FPL has not provided a showing of good cause, as described in the NRC Enforcement Manual, Section 2.7.8, "Relaxation, Withdrawal, or Rescission of Orders," that explains why the actions proposed by FPL provide the same level of safety as the existing requirements in the Confirmatory Order. Specifically, FPL's bases frequently "propose" commitments (as in the case of V.(b), (c), (d), (e), (h), and (j)), as opposed to justifying the withdrawals that were sought. Where justifications are provided (as in the cases of V.(g), and (i)), the nexus between the proposed withdrawals and an acceptable level of quality, safety, security, or risk is not clearly articulated.

Therefore, FPL's request for rescission of Confirmatory Order EA-07-321 is not granted. FPL may submit additional requests pursuant to Section V of EA-07-321 and the NRC will evaluate any subsequent requests in accordance with the order and Section 2.7.8 of the Enforcement Manual.

This letter and your response (if any) will be made available for public inspection and copying at <http://www.nrc.gov/reading-rm/adams.html> and at the NRC Public Document Room in accordance with Title 10 of the *Code of Federal Regulations* 2.390, "Public Inspections, Exemptions, Requests for Withholding."

Sincerely,



Suggs, LaDonna signing on behalf
of Miller, Mark
on 08/04/22

Mark S. Miller, Director
Division of Reactor Projects

Docket Nos. 05000335 and 05000389
License Nos. DPR-67 and NPF-16

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EA-07-321, ST. LUCIE NUCLEAR PLANT UNITS 1 AND 2 – DATED
August 4, 2022

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