



**UNITED STATES
NUCLEAR REGULATORY COMMISSION**
REGION II
245 PEACHTREE CENTER AVENUE NE, SUITE 1200
ATLANTA, GEORGIA 30303-1257

April 9, 2012

EA-12-001

Florida Power and Light Company
ATTN: Mr. Mano Nazar, Senior Vice President
Nuclear and Chief Nuclear Officer
P.O. Box 14000
Juno Beach, FL 33408-0420

SUBJECT: FINAL SIGNIFICANCE DETERMINATION OF A WHITE FINDING, NOTICE OF VIOLATION, PROPOSED IMPOSITION OF CIVIL PENALTY - \$140,000, AND ASSESSMENT FOLLOW-UP LETTER (NRC INSPECTION REPORT 05000250/2012010 AND 05000251/20120010 - TURKEY POINT NUCLEAR PLANT)

Dear Mr. Nazar:

This letter provides the final significance determination of two apparent violations (AVs) identified in NRC Inspection Report (IR) Nos. 05000250/2011005 and 05000251/2011005, dated January 26, 2012.

One AV was assessed using the Significance Determination Process and was preliminarily characterized as White, a finding of low to moderate safety significance that may require additional NRC inspection. The finding involved a failure to comply with 10 CFR 50.54(q) for not maintaining in effect an emergency plan which met the requirements of 10 CFR 50.47(b)(8). Specifically, Florida Power and Light Company's (FPL) emergency plan was not maintained in effect when the Turkey Point Nuclear Plant's Technical Support Center (TSC) ventilation system was removed from service for corrective maintenance from December 4, 2010, to July 13, 2011, and from October 10 to October 28, 2011. During both periods, the licensee removed operating power to all the ventilation dampers in the TSC in preparation for planned maintenance. In this abnormal condition, the ability of the TSC ventilation system to provide radiological protection for TSC responders during an accident had not been evaluated. During both occasions, even though the TSC ventilation system remained in an abnormal condition for extended periods of time, the licensee took no compensatory measures.

The NRC concluded that the licensee failed to maintain a fully functional TSC for two extended periods, failed to evaluate the impact on emergency response, failed to inform affected emergency response organization personnel of the maintenance and the lost function, and failed to implement appropriate compensatory measures. In this condition, response personnel may not have been protected from radiological hazards in the manner for which the facility was designed, thereby rendering the TSC not fully functional. The finding did not represent an immediate safety concern because no radiological emergencies occurred.

The second AV involves the failure to report a major loss of emergency assessment capability to the NRC within 8 hours as required by 10 CFR 50.72(b)(3)(xiii). This AV was considered for escalated enforcement under the NRC's traditional enforcement process.

At your request, a Regulatory and Predecisional Enforcement Conference was held on February 21, 2012, to discuss your views on these issues. A meeting summary was issued on February 27, 2012, which included copies of the slide presentation made by FPL (ADAMS Accession # ML120580477). During the conference FPL:

- discussed the circumstances involved in both time periods;
- acknowledged that a violation of 10 CFR 50.54(q) occurred, in that during the two time periods described, portions of the TSC ventilation system were removed from service without performing the required evaluation or instituting compensatory measures;
- provided event timelines and system configurations for the two time periods;
- provided an analysis which predicted that radiological dose to TSC responders over the 30 day course of a hypothetical accident would be less than 5 Rem (the acceptance criteria for this facility per 10 CFR 50.67 (b) (2) (iii); and
- indicated that the alternate source term (AST) methodology for containment leakage and emergency core cooling systems leakage (ECCS) was not used in the analysis.

FPL contended that the TSC function was degraded, but not lost, and that adequate facilities were provided and maintained as required by 10 CFR 50.47(b)(8). FPL concluded that the significance of the issue should be considered to be of very low safety significance (Green). FPL also concluded that the 2 AVs documented in NRC IR 05000250/2011005 and IR 05000251/2011005, dated January 26, 2012, did not occur.

The NRC acknowledges that with the TSC ventilation system operating in the abnormal configuration, there could be some reduction in exposures due to the recirculation blower forcing some air through the closed dampers and the filter train, as presented by FPL at the conference while discussing the dose calculations. After considering the information developed during the inspection and the information provided by FPL during the conference, the NRC has concluded that the finding involving the failure to comply with 10 CFR 50.54(q) for not maintaining in effect an emergency plan which met the requirements of 10 CFR 50.47(b)(8) should be characterized as a White finding of low to moderate safety significance.

To summarize the NRC's significance determination for this finding, the NRC considered the following factors:

- the impact of out-of-service components in the TSC ventilation system was not assessed and the effect of the maintenance configuration on TSC ventilation functionality was not evaluated;
- completion of the maintenance was not aggressively pursued and affected personnel were not informed of the condition of the facility;
- no system evaluation or procedural guidance was available to Emergency Response Organization members to operate the system in the degraded alignment;
- the need to develop and implement appropriate compensatory measures was not recognized;

- dose calculations should utilize the design basis conditions consistent with 10 CFR 50.67 (b), including those described for containment and ECCS leakage in Regulatory Guide 1.183 Appendix A, sections 3.7 and 5.2, respectively; and
- utilizing the input conditions consistent with 10 CFR 50.67 (b) and Regulatory Guide 1.183, dose calculations are expected to result in exposures in excess of 5 Rem.

These factors, collectively, contributed to the NRC's conclusion that FPL failed to maintain an emergency response facility. Due to the inability of the TSC ventilation system to function in a manner comparable to the main control room, without compensatory measures, and for periods in excess of seven days, this condition is appropriately assessed as White by the IMC 0609, Appendix B, Emergency Preparedness Significance Determination Process. The staff determined that the finding had a cross-cutting aspect in the area of Problem Identification and Resolution since the licensee did not thoroughly evaluate problems with the TSC ventilation system as necessary, including properly classifying, prioritizing, and evaluating for operability and reportability, conditions adverse to quality. (P.1.(c))

The NRC also has determined that the finding involving the failure to maintain a fully functional TSC during the two time periods referenced above is a violation of 10 CFR Part 50.54(q) and 10 CFR 50.47(b)(8). The violation is cited in the enclosed Notice of Violation (Notice) and the circumstances surrounding it are described in detail in IR 05000250/2011005 and IR 05000251/2011005. In accordance with the NRC Enforcement Policy, the Notice is considered escalated enforcement action because it is associated with a White finding.

You have 30 calendar days from the date of this letter to appeal the staff's significance determination for the White finding or the Notice of Violation associated with this finding. An appeal of the White finding will be considered to have merit only if it meets the criteria given in NRC Inspection Manual Chapter 0609, Attachment 2. An appeal must be sent in writing to the Regional Administrator, Region II, U.S. Nuclear Regulatory Commission, 245 Peachtree Center Avenue, Suite 1200, Atlanta, GA 30303-1257.

Regarding the AV involving the failure to report a major loss of emergency assessment capability to the NRC within 8 hours as required by 10 CFR 50.72(b)(3)(xiii), based on the information developed during the inspection and the information provided at the conference, the NRC has concluded that a violation of NRC requirements occurred. As indicated above, the NRC determined that the TSC was not functional, therefore it should have been reported in accordance with 10 CFR 50.72 (b)(3)(xiii). The violation, the significance of which was evaluated using the NRC's traditional enforcement process, is cited in the enclosed Notice and the circumstances surrounding it are described in detail in IR 05000250/2011005 and IR 05000251/2011005. In this case, the NRC concluded that from December 4, 2010, to July 13, 2011, the licensee failed to report an occurrence of a major loss of emergency assessment capability. Specifically, the licensee failed to maintain a fully functional TSC when portions of its ventilation system were removed from service without compensatory measures, and the licensee failed to report the occurrence as required.

As discussed in the Enforcement Policy, the severity level of a violation involving the failure to make a required report to the NRC will be based upon the significance of and the circumstances surrounding the matter that should have been reported. In this case, and as discussed above, the NRC concluded that the failure to provide the required report is associated with a White finding for FPL's failure to maintain a fully functional TSC. In addition, FPL's failure to report the

condition of the TSC from December 4, 2010, to July 13, 2011, as required by 10 CFR 50.72, impeded the NRC's regulatory process. Had FPL reported the incident as required, NRC review and follow-up inspection likely would have occurred, which may have prompted FPL to adopt compensatory measures and/or corrective actions, thereby precluding the incident of October 2011. Based on the above, the NRC has concluded that the violation of 10 CFR 50.72 is appropriately characterized at Severity Level III, in accordance with the NRC Enforcement Policy.

In accordance with the Enforcement Policy, a base civil penalty in the amount of \$70,000 is considered for the Severity Level III violation (i.e., the violation of 10 CFR 50.72). Because your facility has been the subject of escalated enforcement action within the past two years¹, the NRC considered whether credit was warranted for *Identification* and *Corrective Action* in accordance with the civil penalty assessment process in Section VI.C.2 of the Enforcement Policy. In this case, the failure to report the matter to the NRC was identified by the NRC during our review of the TSC ventilation system issues of October 2011. Therefore, credit is not warranted for the factor of Identification. At the conference, FPL presented no substantive corrective actions related to the reporting violation. Specifically, FPL offered no root or contributing causes, offered no comprehensive corrective actions to preclude recurrence, and has not restored compliance by formally reporting the incident of December 4, 2010, to July 13, 2011.

Therefore, to encourage identification, and prompt and comprehensive correction of violations, I have been authorized, after consultation with the Director, Office of Enforcement, to issue the enclosed Notice of Violation and Proposed Imposition of Civil Penalty (Notice), in the amount of two times the base civil penalty, for a total of \$140,000. In addition, issuance of this Notice constitutes escalated enforcement action that may subject you to increased inspection effort.

You are required to respond to this letter and should follow the instructions specified in the enclosed Notice when preparing your response. NRC will use your response, in part, to determine whether further enforcement action is necessary to ensure compliance with regulatory requirements.

For administrative purposes, this letter is issued as a separate NRC Inspection Report, No. 05000250/2012010 and 05000251/2012010. Accordingly, AVs 05000250, 251/2011005-02 and 05000250, 251/2011005-03 are updated consistent with the regulatory positions described in this letter. Therefore AV 05000250, 251/2011005-02, Failure to maintain TSC habitability is updated as VIO 05000250, 251/2011005-02 with a safety significance of White and a cross-cutting aspect in the area Problem Identification and Resolution, P.1.(c). Apparent violation 05000250, 251/2011005-03, Failure to make a required 8 hour NRC report for major loss of emergency assessment capability, is updated as VIO 05000250, 251/2011005-003, Severity Level III, with no cross-cutting aspect.

The NRC determined the performance of Turkey Point Unit 3 and 4 to be in the Regulatory Response Column of the Reactor Oversight Process Action Matrix as of the fourth quarter of calendar year 2011. Therefore, the NRC plans to conduct a supplemental inspection in accordance with Inspection Procedure 95001, "Supplemental Inspection for One or Two White Inputs in a Strategic Performance Area," to provide assurance that the root causes and

¹ A Severity Level III violation and \$70,000 civil penalty was issued on June 21, 2010 (EA-10-037).

contributing causes of risk-significance performance issues are understood, that the extent of cause is identified, and that your corrective action for risk-significant performance issues are sufficient to address the root and contributing causes and prevent recurrence. The NRC requests that your staff provide notification of your readiness for the NRC to conduct a supplemental inspection to review the actions taken to address the White inspection finding.

In accordance with 10 CFR 2.390 of the NRC's "Rules of Practice," a copy of this letter, its enclosures, and your response, will be made available electronically for public inspection in the NRC Public Document Room or from the NRC's document system (ADAMS), accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html>. To the extent possible, your response should not include any personal privacy, proprietary, or safeguards information so that it can be made available to the Public without redaction. If personal privacy or proprietary information is necessary to provide an acceptable response, please provide a bracketed copy of your response that identifies the information that should be protected and a redacted copy of your response that deletes such information. If you request withholding of such information, you must specifically identify the portions of your response that you seek to have withheld and provide in detail the bases for your claim of withholding (e.g., explain why the disclosure of information will create an unwarranted invasion of personal privacy or provide the information required by 10 CFR 2.390(b) to support a request for withholding confidential commercial or financial information). The NRC also includes significant enforcement actions on its Web site at <http://www.nrc.gov/reading-rm/doc-collections/enforcement/actions>.

Should you have any questions concerning this letter, please contact Mr. Daniel Rich at 404-997-4721.

Sincerely,

/RA/

Victor M. McCree
Regional Administrator

Docket Nos.: 50-250, 50-251
License Nos.: DPR-31, DPR-41

Enclosures:

1. Notice of Violation and Proposed Imposition of Civil Penalty
2. NUREG/BR-0254 Payment Methods (Licensee only)

cc w/encl. (see next page)

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Sincerely,
/RA/
 Victor M. McCree
 Regional Administrator

Docket Nos.: 50-250, 50-251
 License Nos.: DPR-31, DPR-41
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1. Notice of Violation and Proposed Imposition of Civil Penalty
2. NUREG/BR-0254 Payment Methods (Licensee only)
 cc w/encl. (see next page)

X PUBLICLY AVAILABLE NON-PUBLICLY AVAILABLE SENSITIVE X NON-SENSITIVE
 ADAMS: X Yes ACCESSION NUMBER: ML12100A243 X SUNSI REVIEW COMPLETE FORM 665 ATTACHED

OFFICE	RII:DRP	RII:DRS	RII:DRS	RII:DRP	RII:DRP	RII:EICS	
SIGNATURE	/RA/	/RA By BBonser/	/RA/	/RA/	/RA/	/RA/	
NAME	GWilson	MSpeck	BBonser	DRich	RCroteau	CEvans	
DATE	3/19/2012	3/19/2012	3/19/2012	3/19/2012	3/19/2012	3/19/20/12	
E-MAIL COPY?	YES NO	YES NO	YES NO	YES NO	YES NO	YES NO	YES NO
OFFICE	NSIR	OE	OGC	RII:RA	RII:RA		
SIGNATURE	/RA By E-mail/	/RA By E-mail/	/RA By E-mail/	/RA/	/RA/		
NAME	TLewis	RZimmerman	MClark	LWert	VMcCree		
DATE	3/29/2012	3/29/2012	4/2/2012	4/5/2012	4/5/2012		
E-MAIL COPY?	YES NO	YES NO	YES NO	YES NO	YES NO	YES NO	YES NO

cc w/encls:
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Electronic Mail Distribution

George Gretsas
City Manager
City of Homestead
Electronic Mail Distribution

Letter to Mano Nazar from Victor M. McCree dated April 9, 2012

SUBJECT: FINAL SIGNIFICANCE DETERMINATION OF A WHITE FINDING, NOTICE OF VIOLATION, AND PROPOSED IMPOSITION OF CIVIL PENALTY (NRC INSPECTION REPORT 05000250/2012010 AND 05000251/20120010 - TURKEY POINT NUCLEAR PLANT)

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**NOTICE OF VIOLATION
AND
PROPOSED IMPOSITION OF CIVIL PENALTY**

Turkey Point Nuclear Plant
Units 3 and 4

Docket Nos. 50-250, 50-251
License No. DPR-31, DPR-41
EA-12-001

During an NRC inspection completed on December 31, 2011, violations of NRC requirements were 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 violations and associated civil penalty are set forth below:

A. Violation Not Assessed a Civil Penalty:

10 CFR 50.54(q) requires, in part, that a licensee authorized to operate a nuclear power reactor shall follow and maintain the effectiveness of an emergency plan which meet the standards of 10 CFR 50.47(b). Planning standard 10 CFR 50.47(b)(8) specifies as a required element of a licensee's emergency response plan that adequate emergency facilities and equipment to support the emergency response are provided and maintained.

Contrary to the above, from December 4, 2010, to July 13, 2011, and from October 10 to October 28, 2011, the licensee failed to maintain the effectiveness of its emergency plan in that adequate emergency facilities and equipment to support emergency response were not provided and maintained. Specifically, the licensee failed to follow and maintain the effectiveness of its emergency plan when portions of the Technical Support Center (TSC) ventilation system were removed from service for maintenance, without compensatory measures. Removal of the TSC ventilation system from service without implementation of compensatory measures during these periods constituted a failure to provide and maintain an adequate emergency facility.

This violation is associated with a White Significance Determination Process finding in the Emergency Preparedness cornerstone.

B. Violation Assessed a Civil Penalty:

10 CFR 50.72(b)(3)(xiii) states that a licensee shall notify the NRC as soon as practical and in all cases within eight hours of the occurrence of any event that results in a major loss of emergency assessment capability, offsite response capability, or offsite communications capability (e.g., significant portion of control room indication, Emergency Notification System, or offsite notification system).

Contrary to the above, from December 4, 2010, to July 13, 2011, the licensee failed to report the occurrence of a major loss of emergency assessment capability. Specifically, the licensee failed to maintain an adequate emergency facility when portions of the TSC ventilation system were removed from service without compensatory measures, and the licensee failed to report the occurrence as required.

This is a Severity Level III violation (Enforcement Policy paragraph 6.6)
Civil Penalty - \$ 140,000

Pursuant to the provisions of 10 CFR 2.201, Florida Power and Light Company, Inc. (Licensee) is hereby required to submit a written statement or explanation to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, within 30 days of the date of this Notice of Violation and Proposed Imposition of Civil Penalty (Notice). This reply should be clearly marked as a "Reply to a Notice of Violation: (EA-12-001)" and should include for each alleged violation: (1) admission or denial of the alleged violation; (2) the reasons for the violation if admitted, and if denied, the basis for denying the validity of the violation; (3) the corrective steps that have been taken and the results achieved; (4) the corrective steps that will be taken; and (5) the date when full compliance will be achieved. Your response may reference or include previously docketed correspondence, if the correspondence adequately addresses the required response. If an adequate reply is not received within the time specified in this Notice, the NRC may issue an Order or a Demand for Information requiring you to explain why your license should not be modified, suspended, or revoked or why the NRC should not take other action as may be proper. Consideration may be given to extending the response time for good cause shown. Under the authority of Section 182 of the Act, 42 U.S.C. 2232, this response shall be submitted under oath or affirmation.

If you contest this enforcement action, you should also provide a copy of your response, with the basis for your denial, to the Director, Office of Enforcement, United States Nuclear Regulatory Commission, Washington, DC 20555-0001.

Within the same time provided for the response required under 10 CFR 2.201, the Licensee may pay the civil penalty proposed above in accordance with NUREG/BR-0254, by submitting to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, a statement indicating when and by what method payment was made, or may protest imposition of the civil penalty in whole or in part, by a written answer addressed to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission. Should the Licensee fail to answer within 30 days of the date of this Notice, the NRC will issue an order imposing the civil penalty. Should the Licensee elect to file an answer in accordance with 10 CFR 2.205 protesting the civil penalty, in whole or in part, such answer should be clearly marked as an "Answer to a Notice of Violation" and may: (1) deny the violations listed in this Notice, in whole or in part; (2) demonstrate extenuating circumstances; (3) show error in this Notice; or (4) show other reasons why the penalty should not be imposed. In addition to protesting the civil penalty in whole or in part, such answer may request remission or mitigation of the penalty.

In requesting mitigation of the proposed penalty, the response should address the factors addressed in Section VI.C.2, "Civil Penalty Assessment," of the Enforcement Policy. Any written answer addressing these factors pursuant to 10 CFR 2.205, should be set forth

Enclosure 1

separately from the statement or explanation provided pursuant to 10 CFR 2.201, but may incorporate parts of the 10 CFR 2.201 reply by specific reference (e.g., citing page and paragraph numbers) to avoid repetition. The attention of the licensee is directed to the other provisions of 10 CFR 2.205, regarding the procedure for imposing a civil penalty.

Upon failure to pay any civil penalty which subsequently has been determined in accordance with the applicable provisions of 10 CFR 2.205 to be due, this matter may be referred to the Attorney General, and the penalty, unless compromised, remitted, or mitigated, may be collected by civil action pursuant to Section 234c of the Act, 42 U.S.C. 2282c.

The responses noted above, i.e., Reply to Notice of Violation, Statement as to payment of civil penalty, and Answer to a Notice of Violation, should be addressed to: Roy Zimmerman, Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852-2738, with a copy to the Regional Administrator, U.S. Nuclear Regulatory Commission, Region II, 245 Peachtree Center Avenue, Suite 1200, Atlanta, GA 30303-1257, and a copy to the NRC Resident Inspector at the facility that is the subject of this Notice.

Because your response will be made available electronically for public inspection in the NRC Public Document Room or from the NRC's document system (ADAMS), accessible from the NRC Web site <http://www.nrc.gov/reading-rm/adams.html> to the extent possible, it should not include any personal privacy, proprietary, or safeguards information so that it can be made available to the public without redaction. If personal privacy or proprietary information is necessary to provide an acceptable response, then please provide a bracketed copy of your response that identifies the information that should be protected and a redacted copy of your response that deletes such information. If you request withholding of such material, you must specifically identify the portions of your response that you seek to have withheld and provide in detail the bases for your claim of withholding (e.g., explain why the disclosure of information will create an unwarranted invasion of personal privacy or provide the information required by 10 CFR 2.390(b) to support a request for withholding confidential commercial or financial information). If safeguards information is necessary to provide an acceptable response, please provide the level of protection described in 10 CFR 73.21.

In accordance with 10 CFR 19.11, you may be required to post this Notice within two working days of receipt.

Dated this 9th day of April 2012.