

Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Attention: Rulemaking and Adjudications Staff; or (2) courier, express mail, or expedited delivery service to the Office of the Secretary, Sixteenth Floor, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852, Attention: Rulemaking and Adjudications Staff. Participants filing a document in this manner are responsible for serving the document on all other participants. Filing is considered complete by first-class mail as of the time of deposit in the mail, or by courier, express mail, or expedited delivery service upon depositing the document with the provider of the service. A presiding officer, having granted an exemption request from using E-Filing, may require a participant or party to use E-Filing if the presiding officer subsequently determines that the reason for granting the exemption from use of E-Filing no longer exists.

Documents submitted in adjudicatory proceedings will appear in NRC's electronic hearing docket which is available to the public at <http://ehd1.nrc.gov/EHD/>, unless excluded pursuant to an order of the Commission, or the presiding officer. Participants are requested not to include personal privacy information, such as social security numbers, home addresses, or home phone numbers in their filings, unless an NRC regulation or other law requires submission of such information. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, participants are requested not to include copyrighted materials in their submission.

Petitions for leave to intervene must be filed no later than 20 days from the date of publication of this notice. Non-timely filings will not be entertained absent a determination by the presiding officer that the petition or request should be granted or the contentions should be admitted, based on a balancing of the factors specified in 10 CFR 2.309(c)(1)(i)-(viii).

The Commission will issue a notice or order granting or denying a hearing request or intervention petition, designating the issues for any hearing that will be held and designating the presiding officer. A notice granting a hearing will be published in the **Federal Register** and served on the parties to the hearing.

Within 30 days from the date of publication of this notice, persons may

submit written comments regarding the license transfer application, as provided for in 10 CFR 2.1305. The Commission will consider and, if appropriate, respond to these comments, but such comments will not otherwise constitute part of the decisional record. Comments should be submitted to the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Attention: Rulemakings and Adjudications Staff, and should cite the publication date and page number of this **Federal Register** notice.

For further details with respect to this license transfer application, see the application dated March 30, 2011, available for public inspection at the Commission's Public Document Room (PDR), located at One White Flint North, Public File Area O1 F21, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available documents created or received at the NRC are accessible electronically through ADAMS in the NRC Library at <http://www.nrc.gov/reading-rm/adams.html>.

Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS should contact the NRC PDR Reference staff by telephone at 1-800-397-4209, or 301-415-4737 or by e-mail to [pdr.resource@nrc.gov](mailto:pdr.resource@nrc.gov).

Dated at Rockville, Maryland this 22nd day of August 2011.

For the Nuclear Regulatory Commission.

**Farideh E. Saba,**

*Senior Project Manager, Plant Licensing Branch 2-2, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.*

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**BILLING CODE 7590-01-P**

## **NUCLEAR REGULATORY COMMISSION**

[Docket No. 50.302; NRC-2011-0198]

### **Florida Power Corporation, Crystal River Unit No. 3 Nuclear Generating Plant; Notice of Consideration of Approval of Application for Indirect License Transfers Resulting From the Proposed Merger Between Progress Energy, Inc. and Duke Energy Corporation, and Opportunity for Hearing**

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Notice of request for indirect license transfer, opportunity to comment and to request a hearing.

**DATES:** Comments must be filed by September 29, 2011. A request for a

hearing must be filed by September 19, 2011.

**ADDRESSES:** Please include Docket ID NRC-2011-0198 in the subject line of your comments. For additional instructions on submitting comments and instructions on accessing documents related to this action, see "Submitting Comments and Accessing Information" in the **SUPPLEMENTARY INFORMATION** section of this document. You may submit comments by any one of the following methods:

- *Federal Rulemaking Web Site:* Go to <http://www.regulations.gov> and search for documents filed under Docket ID NRC-2011-0198. Address questions about NRC dockets to Carol Gallagher, telephone: 301-492-3668; e-mail: [Carol.Gallagher@nrc.gov](mailto:Carol.Gallagher@nrc.gov).

- *Mail comments to:* Cindy Bladey, Chief, Rules, Announcements, and Directives Branch (RADB), Office of Administration, Mail Stop: TWB-05-B01M, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001.

- *Fax comments to:* RADB at 301-492-3446.

#### **SUPPLEMENTARY INFORMATION:**

#### **Submitting Comments and Accessing Information**

Comments submitted in writing or in electronic form will be posted on the NRC Web site and on the Federal rulemaking Web site, <http://www.regulations.gov>. Because your comments will not be edited to remove any identifying or contact information, the NRC cautions you against including any information in your submission that you do not want to be publicly disclosed.

The NRC requests that any party soliciting or aggregating comments received from other persons for submission to the NRC inform those persons that the NRC will not edit their comments to remove any identifying or contact information, and therefore, they should not include any information in their comments that they do not want publicly disclosed.

You can access publicly available documents related to this document using the following methods:

- *NRC's Public Document Room (PDR):* The public may examine and have copied, for a fee, publicly available documents at the NRC's PDR, O1-F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

- *NRC's Agencywide Documents Access and Management System (ADAMS):* Publicly available documents created or received at the NRC are available online in the NRC Library at

<http://www.nrc.gov/reading-rm/adams.html>. From this page, the public can gain entry into ADAMS, which provides text and image files of the NRC's public documents. If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC's PDR reference staff at 1-800-397-4209, 301-415-4737, or by e-mail to [pdr.resource@nrc.gov](mailto:pdr.resource@nrc.gov). The application dated March 30, 2011, is available electronically under ADAMS Accession No. ML11110A031.

• *Federal Rulemaking Web Site:*

Public comments and supporting materials related to this notice can be found at <http://www.regulations.gov> by searching on Docket ID NRC-2011-0198.

**FOR FURTHER INFORMATION CONTACT:**

Farideh E. Saba, Senior Project Manager, Plant Licensing Branch 2-2, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Telephone: 301-415-1447; fax number: 301-415-2102; e-mail: [Farideh.Saba@nrc.gov](mailto:Farideh.Saba@nrc.gov).

The Commission is considering the issuance of an order under Title 10 of Code of Federal Regulations (10 CFR) 50.80 approving the indirect transfer of the Facility Operating License No. DPR-72 for Crystal River Unit 3 Nuclear generating plant (CR-3), currently held by Florida Power Corporation, as owner and licensed operator.

According to an application dated March 30, 2011, filed by Florida Power Corporation (FPC, the licensee), Progress Energy, Inc. (Progress Energy, the licensee's current ultimate parent corporation) seeks approval pursuant to 10 CFR 50.80 for indirect transfer of control of CR-3, along with Brunswick Steam Electric Plant (BSEP), Units 1 and 2, including BSEP Independent Spent Fuel Storage Installation, Shearon Harris Nuclear Power Plant, Unit 1, H.B. Robinson Steam Electric Plant (Robinson), Unit 2, and Robinson Independent Spent Fuel Storage Installations. Progress Energy would merge with Duke Energy Corporation (Duke Energy). The merged company would become the ultimate parent of the current licensee. FPC will continue to own and operate the licensed facility in accordance with the License.

According to the application, under the terms of the Merger Agreement, Diamond Acquisition Corporation (Merger Sub), a wholly-owned direct subsidiary of Duke Energy, will merge with and into Progress Energy. Progress Energy will become a wholly owned direct subsidiary of Duke Energy and

the former shareholders of Progress Energy will become shareholders of Duke Energy. The current licensee will remain a wholly owned subsidiary of Progress Energy and will continue to operate CR-3 facility.

According to the application, it is anticipated that Duke Energy shareholders will own approximately 63 percent of the combined company and Progress Energy shareholders will own approximately 37 percent of the combined company on a fully diluted basis.

According to the application, when the transaction is completed, Duke Energy will have an eighteen-member board of directors. All eleven current directors of Duke Energy will continue as directors when the transaction is complete, subject to their ability and willingness to serve. Progress Energy, after consultation with Duke Energy, designated seven of the current directors of Progress Energy to be added to the board of directors of Duke Energy when the transaction is complete, similarly subject to their ability and willingness to serve.

According to the application, the technical qualifications of the licensees are not affected by the proposed indirect transfers of control of the CR-3 license. The current licensee will at all times remain the licensed operator of CR-3. No conforming amendments will be required to the facility operating license as a result of the proposed transaction. The nuclear operating organization for the licensed facility is expected to remain essentially unchanged as a result of the acquisition. Specifically, the proposed indirect transfer of control will not result in any change in the role of the FPC as the licensed operator of the licensed facilities and will not result in any changes to their financial qualifications, decommissioning funding assurance, or technical qualifications. FPC will retain the requisite qualifications to own and operate the licensed facility.

No physical changes to the above listed facilities or operational changes are being proposed in the application.

Pursuant to 10 CFR 50.80, no license, or any right thereunder, shall be transferred, directly or indirectly, through transfer of control of the license, unless the Commission shall give its consent in writing. The Commission will approve an application for the indirect transfer of a license, if the Commission determines that the proposed merger will not affect the qualifications of the licensee to hold the license, and that the transfer is otherwise consistent with applicable provisions of law, regulations, and

orders issued by the Commission pursuant thereto.

The filing of requests for hearing and petitions for leave to intervene, and written comments with regard to the license transfer application, are discussed below.

Within 20 days from the date of publication of this notice, any person(s) whose interest may be affected by the Commission's action on the application may request a hearing and intervention via electronic submission through the NRC E-Filing system. Requests for a hearing and petitions for leave to intervene should be filed in accordance with the Commission's rules of practice set forth in Subpart C "Rules of General Applicability: Hearing Requests, Petitions to Intervene, Availability of Documents, Selection of Specific Hearing Procedures, Presiding Officer Powers, and General Hearing Management for NRC Adjudicatory Hearings," of 10 CFR part 2. In particular, such requests and petitions must comply with the requirements set forth in 10 CFR 2.309. Untimely requests and petitions may be denied, as provided in 10 CFR 2.309(c)(1), unless good cause for failure to file on time is established. In addition, an untimely request or petition should address the factors that the Commission will also consider, in reviewing untimely requests or petitions, set forth in 10 CFR 2.309(c)(1)(i)-(viii). NRC regulations are accessible electronically from the NRC Library at <http://www.nrc.gov/reading-rm/doc-collections/cfr/>.

All documents filed in NRC adjudicatory proceedings, including a request for hearing, a petition for leave to intervene, any motion or other document filed in the proceeding prior to the submission of a request for hearing or petition to intervene, and documents filed by interested governmental entities participating under 10 CFR 2.315(c), must be filed in accordance with the NRC E-Filing rule (72 FR 49139, August 28, 2007). The E-Filing process requires participants to submit and serve all adjudicatory documents over the internet, or in some cases to mail copies on electronic storage media. Participants may not submit paper copies of their filings unless they seek an exemption in accordance with the procedures described below.

To comply with the procedural requirements of E-Filing, at least 10 days prior to the filing deadline, the participant should contact the Office of the Secretary by e-mail at [hearing.docket@nrc.gov](mailto:hearing.docket@nrc.gov), or by telephone at 301-415-1677, to request (1) A digital ID certificate, which allows the

participant (or its counsel or representative) to digitally sign documents and access the E-Submittal server for any proceeding in which it is participating; and (2) advise the Secretary that the participant will be submitting a request or petition for hearing (even in instances in which the participant, or its counsel or representative, already holds an NRC-issued digital ID certificate). Based upon this information, the Secretary will establish an electronic docket for the hearing in this proceeding if the Secretary has not already established an electronic docket.

Information about applying for a digital ID certificate is available on NRC's public Web site at <http://www.nrc.gov/site-help/e-submittals/apply-certificates.html>. System requirements for accessing the E-Submittal server are detailed in NRC's "Guidance for Electronic Submission," which is available on the agency's public Web site at <http://www.nrc.gov/site-help/e-submittals.html>. Participants may attempt to use other software not listed on the Web site, but should note that the NRC's E-Filing system does not support unlisted software, and the NRC Meta System Help Desk will not be able to offer assistance in using unlisted software.

If a participant is electronically submitting a document to the NRC in accordance with the E-Filing rule, the participant must file the document using the NRC's online, Web-based submission form. In order to serve documents through Electronic Information Exchange, users will be required to install a Web browser plug-in from the NRC Web site. Further information on the Web-based submission form, including the installation of the Web browser plug-in, is available on the NRC's public Web site at <http://www.nrc.gov/site-help/e-submittals.html>.

Once a participant has obtained a digital ID certificate and a docket has been created, the participant can then submit a request for hearing or petition for leave to intervene. Submissions should be in Portable Document Format (PDF) in accordance with NRC guidance available on the NRC public Web site at <http://www.nrc.gov/site-help/e-submittals.html>. A filing is considered complete at the time the documents are submitted through the NRC's E-Filing system. To be timely, an electronic filing must be submitted to the E-Filing system no later than 11:59 p.m. Eastern Time on the due date. Upon receipt of a transmission, the E-Filing system time-stamps the document and sends the submitter an e-mail notice

confirming receipt of the document. The E-Filing system also distributes an e-mail notice that provides access to the document to the NRC Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the documents on those participants separately. Therefore, applicants and other participants (or their counsel or representative) must apply for and receive a digital ID certificate before a hearing request/petition to intervene is filed so that they can obtain access to the document via the E-Filing system.

A person filing electronically using the agency's adjudicatory E-Filing system may seek assistance by contacting the NRC Meta System Help Desk through the "Contact Us" link located on the NRC Web site at <http://www.nrc.gov/site-help/e-submittals.html>, by e-mail at [MSHD.Resource@nrc.gov](mailto:MSHD.Resource@nrc.gov), or by a toll-free call at (866) 672-7640. The NRC Meta System Help Desk is available between 8 a.m. and 8 p.m., Eastern Time, Monday through Friday, excluding government holidays.

Participants who believe that they have a good cause for not submitting documents electronically must file an exemption request, in accordance with 10 CFR 2.302(g), with their initial paper filing requesting authorization to continue to submit documents in paper format. Such filings must be submitted by: (1) First class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Attention: Rulemaking and Adjudications Staff; or (2) courier, express mail, or expedited delivery service to the Office of the Secretary, Sixteenth Floor, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852, Attention: Rulemaking and Adjudications Staff. Participants filing a document in this manner are responsible for serving the document on all other participants. Filing is considered complete by first-class mail as of the time of deposit in the mail, or by courier, express mail, or expedited delivery service upon depositing the document with the provider of the service. A presiding officer, having granted an exemption request from using E-Filing, may require a participant or party to use E-Filing if the presiding officer subsequently determines that the reason for granting the exemption from use of E-Filing no longer exists.

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ADAMS should contact the NRC PDR Reference staff by telephone at 1-800-397-4209, or 301-415-4737 or by e-mail to [pdr.resource@nrc.gov](mailto:pdr.resource@nrc.gov).

Dated at Rockville, Maryland this 22nd day of August 2011.

For the Nuclear Regulatory Commission.

**Farideh E. Saba,**

*Senior Project Manager, Plant Licensing Branch 2-2, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.*

[FR Doc. 2011-22104 Filed 8-29-11; 8:45 am]

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## NUCLEAR REGULATORY COMMISSION

[NRC-2011-0195; 030-33792; 12-16941-03 (terminated); EA-10-161]

### In the Matter of Professional Service Industries, Inc., Oakbrook Terrace, IL; Confirmatory Order (Effective Immediately)

#### I

Professional Service Industries, Inc., (PSI) was the holder of Materials License No. 12-16941-03 issued by the U.S. Nuclear Regulatory Commission (NRC or Commission) pursuant to Title 10 of the Code of Federal Regulations (10 CFR) part 30 on September 13, 1995, and terminated on January 29, 2010. The license authorized PSI to possess and use sealed radioactive sources in performance of industrial radiographic activities in Rock Springs, Wyoming, and at temporary job sites within Federal jurisdiction.

This Confirmatory Order is the result of an agreement reached during an Alternative Dispute Resolution (ADR) mediation session conducted on July 11, 2011.

#### II

On March 31, 2009, the NRC conducted an inspection at the PSI Oakbrook Terrace, Illinois, facility, and on July 27 through 30, 2009, at the PSI Rock Springs, Wyoming, facility and at a temporary jobsite in Wyoming. The NRC also continued to do in-office inspection through April 25, 2011. On April 10, 2009, the NRC Office of Investigations (OI) initiated an investigation (OI Case No. 3-2009-021) to determine whether management individuals at the PSI Rock Springs, Wyoming, office engaged in deliberate misconduct by allowing uncertified radiographers to conduct radiography and by failing to ensure that qualified individuals were present to maintain proper surveillance during radiographic operations.

The NRC inspection identified that safety and security-related violations had occurred at PSI's Rock Springs, Wyoming, office, and at temporary job sites in the vicinity of the Rock Springs, Wyoming, office during 2008 and 2009. The apparent safety violations included PSI's failure to: (1) Ensure that individuals acting as radiographers had required training; (2) ensure that individuals acting as radiographer's assistants had required training and that there were two qualified individuals present when performing radiography at temporary jobsites; (3) provide a radiographer's assistant with a personnel dosimeter to wear while conducting radiographic operations; (4) conduct annual reviews of its Radiation Protection Program content and implementation; (5) provide annual reports of the doses received by monitored individuals to those individuals; (6) use physical barriers for the restricted area perimeter; (7) prevent unauthorized personnel from being within the restricted area boundaries while industrial radiographic equipment was in use; and (8) conduct reasonable surveys to assure compliance with public dose limits. The security-related violations are described in the non-publicly available Appendix to this Confirmatory Order.

The NRC investigation determined that a manager in the PSI Rock Springs, Wyoming, office willfully assigned an individual to perform radiography on at least one occasion, knowing that the individual was not properly qualified. The NRC investigation also determined that an individual deliberately accepted the assignment and performed radiography, knowing that his Industrial Radiography Radiation Safety Personnel (IRRSP) card had expired.

On July 11, 2011, the NRC and PSI met in an ADR session mediated by a professional mediator, arranged through Cornell University's Institute on Conflict Resolution. Alternative Dispute Resolution is a process in which a neutral mediator with no decision-making authority assists the parties in reaching an agreement on resolving any differences regarding the dispute. This Confirmatory Order is issued pursuant to the agreement reached during the ADR process.

#### III

In response to the NRC's offer, PSI requested use of the NRC's ADR process to resolve differences it had with the NRC. During an ADR session on July 11, 2011, a preliminary settlement agreement was reached. The elements of the agreement consisted of the following:

1. Within 90 days of the issuance of this Confirmatory Order, PSI agrees to review the training, certification and security authorization of each employee performing or assisting with radiography. Within 30 days of the completion of the review, a corporate level individual will sign a statement indicating whether the employee is authorized to work with licensed material. For radiographers, this statement will include the expiration date for their radiography training required by 10 CFR 34.43 or equivalent State requirements. A copy of the statement will be provided to the employee, the employee's immediate supervisor, and the local radiation safety officer, as well as be kept by the corporate office. Prior to the employee being assigned to a radiography crew, the person assigning work will verify that the employee is qualified. PSI will implement a periodic (at least biennial) review of the qualification statements for at least the next five years. This item will be included as a line item in the PSI annual audit (required by 10 CFR 20.1101 or the equivalent State requirements) of the Radiation Safety Program for the next five years; it may be lined through for those years not requiring review.

2. Within 90 days of the issuance of this Confirmatory Order, PSI agrees to develop and implement procedures for the corporate radiation safety office to directly perform or to observe the local radiation safety officer's performance of the field inspections/audits of radiographers and radiographer assistants required by 10 CFR 34.43(e) or equivalent State requirements. The procedures shall define the periodicity of the inspections/audits, such that each branch office is inspected by the corporate radiation safety staff at least once every year. These procedures will be maintained and revised based on lessons learned for a minimum of five years. These procedures will include safety and security areas to be evaluated by corporate radiation staff and areas that will be evaluated by branch office radiation staff.

3. Within 90 days of the issuance of this Confirmatory Order, PSI agrees to develop and implement a disciplinary program with a graded approach for radiation safety and security infractions. Under the program, corporate staff will have the authority to take direct disciplinary action for radiation safety and security issues. The disciplinary program will emphasize individual responsibility for radiation safety and radioactive material security, and will encourage reporting safety and security concerns, including the employee