



U.S. Department
of Transportation

**Pipeline and
Hazardous Materials Safety
Administration**

400 Seventh Street, S.W.
Washington, D.C. 20590

JUN 20 2005

Mr. Adalberto Alfonso
Vice President - Operations
Florida Power & Light Company
700 Universe Boulevard
Juno Beach, FL 33408

RE: CPF No. 2-2004-6011

Dear Mr. Alfonso:

Enclosed is the Final Order issued by the Associate Administrator for Pipeline Safety in the above-referenced case. It makes findings of violation and requires certain corrective action. When the terms of the compliance order are completed, as determined by the Director, Southern Region, this enforcement action will be closed. Your receipt of this Final Order constitutes service of that document under 49 C.F.R. § 190.5.

Sincerely,

James Reynolds
Pipeline Compliance Registry
Office of Pipeline Safety

Enclosure

cc: Ms. Linda Daugherty, Director, Southern Region, OPS

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

DEPARTMENT OF TRANSPORTATION
PIPELINE AND HAZARDOUS MATERIALS SAFETY ADMINISTRATION
OFFICE OF PIPELINE SAFETY
WASHINGTON, DC 20590

In the Matter of

FLORIDA POWER & LIGHT COMPANY,

Respondent.

CPF No. 2-2004-6011

FINAL ORDER

On March 24 and 25, 2004, pursuant to 49 U.S.C. § 60117, representatives of the Office of Pipeline Safety (OPS), Southern Region, conducted an inspection of Respondent's Operator Qualification Plan at its Martin Terminal in West Palm Beach, Florida. As a result of the inspection, the Director, Southern Region, OPS, issued to Respondent, by letter dated September 22, 2004, a Notice of Probable Violation and Proposed Compliance Order (Notice)¹. In accordance with 49 C.F.R. § 190.207, the Notice proposed finding that Respondent had violated 49 C.F.R. Part 195 and proposed that Respondent take certain measures to correct the alleged violations.

Respondent responded to the Notice by letter dated, October 8, 2004 (Response). Respondent did not contest the allegations of violation but offered an explanation and provided information concerning the corrective actions it has taken. Respondent did not request a hearing, and therefore has waived its right to one.

FINDINGS OF VIOLATION

(Uncontested)

In its Response, Respondent did not contest the alleged violations in the Notice. Accordingly, I find that Respondent violated the following sections of 49 C.F.R. Part 195, as more fully described in the Notice:

49 C.F.R. § 195.509(b) -- failure to complete the qualification of individuals performing covered tasks by October 28, 2002, as Respondent failed to train its employees to recognize and react to abnormal operating conditions.

¹This case, however, is no longer before RSPA for decision. Effective February 20, 2005, the Pipeline and Hazardous Materials Safety Administration (PHMSA) was created to further the highest degree of safety in pipeline transportation and hazardous materials transportation. See, section 108 of the Norman Y. Mineta Research and Special Programs Improvement Act (Public Law 108-426, 118 Stat. 2423-2429 (November 30, 2004)). See also, 70 Fed. Reg. 8299 (February 18, 2005) re delegating the pipeline safety functions to the Administrator, PHMSA.

49 C.F.R. § 195.505(c) -- failure to have and follow a written qualification program with provisions to ensure through evaluation that individuals performing covered tasks are qualified, as Respondent did not clearly define, either by task or conditions, the number of non-qualified persons that can be directed and observed by one qualified person.

These findings of violation will be considered prior offenses in any subsequent enforcement action taken against Respondent.

COMPLIANCE ORDER

The Notice proposed a compliance order with respect to Items 1 and 2 for violations of 49 C.F.R. §§ 195.509(b) and 195.505(c).

Under 49 U.S.C. § 60118(a), each person who engages in the transportation of hazardous liquids or who owns or operates a pipeline facility is required to comply with the applicable safety standards established under chapter 601. Pursuant to the authority of 49 U.S.C. § 60118(b) and 49 C.F.R. § 190.217, Respondent is ordered to take the following actions to ensure compliance with the pipeline safety regulations applicable to its operations. Respondent must -

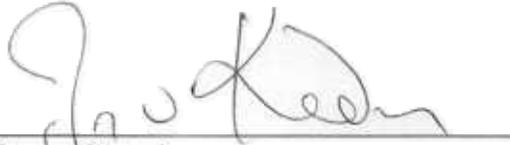
1. Submit documentation to show that each employee qualified to perform covered tasks using work performance history meet the requirements to be qualified both by documented history and abnormal operating conditions training. Complete this item within 90 days of receipt of this Order.
2. Define the number of non-qualified persons(span of control) that a qualified individual can direct and observe at one time by covered task. In addition, define which covered task(s) can not be directed and observed, such as welding. Complete this item within 30 days of receipt of this Order.
3. Submit documentation and evidence of completion of these actions to Ms. Linda Daugherty, Director, OPS, Southern Region, Pipeline and Hazardous Materials Safety Administration, 233 Peachtree Street, Suite 600, Atlanta, GA 30303.

The Director, OPS, Southern Region may grant an extension of time for compliance with any of the terms of this order for good cause. A request for an extension must be in writing and adequately justifies the reasons for the extension.

Failure to comply with this Final Order may result in the assessment of civil penalties of up to \$100,000 per violation per day, or in the referral of the case for judicial enforcement.

Under 49 C.F.R. § 190.215, Respondent has a right to submit a Petition for Reconsideration of this Final Order. The petition must be received within 20 days of Respondent's receipt of this Final Order and must contain a brief statement of the issue(s). The terms of the order, including any

required corrective action, remain in full effect unless the Associate Administrator, upon request, grants a stay. The terms and conditions of this Final Order are effective on receipt.



Stacey Gerard
Associate Administrator
for Pipeline Safety

for

JUN 20 2005

Date Issued