

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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In re: Nuclear Power Plant Cost
Recovery Clause

Docket No. 100009-EI
Submitted for Filing: August 3, 2010

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PROGRESS ENERGY FLORIDA, INC.'S PREHEARING STATEMENT

Progress Energy Florida, Inc. ("PEF" or the "Company") hereby submits its Prehearing Statement in this matter, and states as follows:

A. APPEARANCES:

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B. WITNESSES AND EXHIBITS:

In identifying witnesses and exhibits herein, PEF reserves the right to call such other witnesses and to use such other exhibits as may be identified in the course of discovery and preparation for the final hearing in this matter.

1. WITNESSES.

Direct Testimony.

<u>Witness</u>	<u>Subject Matter</u>	<u>Issues</u>
Will Garrett	March 1, 2010 testimony: Reasonableness and prudence of PEF's CR3 Uprate project and Levy Nuclear Project ("LNP") actual costs for 2009.	4, 9, 12
Thomas G. Foster	April 30, 2010 testimony: Reasonableness of PEF's actual/estimated 2010 and 2011 projected costs for the CR3 Uprate project and LNP.	10, 11, 13, 14, 15
Gary Doughty	March 1, 2010 testimony: Reasonableness and prudence of project management, contracting and oversight controls for the LNP.	5
Dr. Patricia Galloway	April 30, 2010 testimony: Reasonableness and prudence of the Company's decision based on the prudence of the Company's process for making its management decision and the Company's implementation of that decision.	7
Jon Franke	March 1, 2010 testimony: Reasonableness and prudence of PEF's actual costs for 2009 for the CR3 Uprate project. Reasonableness and prudence of project management, contracting and oversight controls for the CR3 Uprate project. April 30, 2010 testimony: Reasonableness of PEF's actual/estimated costs for 2010 and projected costs for 2011 for the CR3 Uprate project; long-term feasibility analysis of completing the CR3 Uprate project.	4, 5, 8, 9, 10, 11

Ken Karp	<p>March 1, 2010 testimony: Reasonableness and prudence of PEF's actual LNP transmission costs for 2009. Reasonableness and prudence of project management, contracting and oversight controls for the LNP.</p> <p>April 30, 2010 testimony: Reasonableness of PEF's transmission-related LNP actual/estimated 2010 costs and projected 2011 costs.</p>	4, 5, 12, 13, 14
Sue Hardison	<p>March 1, 2010 testimony: Reasonableness and prudence of PEF's actual LNP costs for 2009. Reasonableness and prudence of project management, contracting and oversight controls for the LNP.</p> <p>April 30, 2010 testimony: Reasonableness of PEF's LNP actual/estimated 2010 costs and projected 2011 costs.</p>	4, 5, 12, 13, 14
John Elnitsky	<p>April 30, 2010 testimony: Reasonableness and prudence of (i) PEF's management of the LNP given the schedule shift, (ii) PEF's evaluations of the LNP options, (iii) PEF's recommended decision, and (iv) the implementation of that recommended decision.</p>	5, 7
Jeff Lyash	<p>April 30, 2010 testimony: Reasonableness and prudence of the Company's LNP evaluation and decision and the implementation of that decision, and the long-term feasibility analysis of completing the LNP.</p>	6, 7

Rebuttal Testimony.

<u>Witness</u>	<u>Subject matter</u>	<u>Issues</u>
Jon Franke	<p>Rebuttal of intervenor witness Jacobs testimony and Staff Coston and Carpenter testimony and attached Audit Report regarding the Company's CR3 Uprate project schedule and costs for its License Amendment Request ("LAR"), low pressure turbines ("LPTs"), and the impact of the extended CR3 outage on the CR3 Uprate</p>	5, 8, 9, 10, 11

project schedule.

John Elnitsky	Rebuttal of intervenor witness Jacobs, Gundersen and Cooper testimony and Staff Coston and Carpenter testimony and attached Audit Report regarding the (i) reasonableness and prudence of the Company's evaluation of the LNP options and recommended decision and (ii) the regulatory and technical feasibility of the LNP using the AP1000 nuclear reactor design.	6, 7
Jeff Lyash	Rebuttal of intervenor witness Jacobs, Gundersen, and Cooper regarding (i) the reasonableness and prudence of the LNP options reviewed by management and the decision made by the Company and (ii) the regulatory, technical, and economic feasibility of completing the LNP.	6, 7

2. DIRECT TESTIMONY EXHIBITS.

<u>Exhibit Number</u>	<u>Witness</u>	<u>Description</u>
WG-1	Will Garrett	CONFIDENTIAL - Schedules T-1 through T-7B, which reflect PEF's retail revenue requirements for the LNP from January 2009 through December 2009 (Sue Hardison and Ken Karp sponsoring portions of T4, T-4A, T-6, T-6A, T-6B, T-7, T-7A & T-7B)
WG-2	Will Garrett	CONFIDENTIAL - Schedules T-1 through T-7B and Appendixes A through C, reflecting PEF's retail revenue requirements for the CR3 Uprate for period January 2009 through December 2009 (Jon Franke sponsoring portions of schedules T-4, T-4A & T-6, as well as Appendix B, and all of schedules T-6A, T-6B, T-7, T-7A & T-7B)
TGF-1	Thomas G. Foster	CONFIDENTIAL - Schedules AE-1 through AE-7B and Appendixes A through E which reflect PEF's retail revenue requirements for the LNP from January 2010 through December 2010 (Sue Hardison and Ken Karp sponsoring portions schedules of AE-4, AE-4A, AE-6, AE-6A, AE-6B, AE-7, AE-7A & AE-7B)

TGF-2	Thomas G. Foster	CONFIDENTIAL - Schedules P-1 through P-8 and Appendixes A through D, which reflect PEF's projected retail revenue requirements for the LNP for January 2011 through December 2011 (Sue Hardison and Ken Karp sponsoring portions of P4, P-6, P-6A, P-7, P-7A & P-7B)
TGF-3	Thomas G. Foster	CONFIDENTIAL - Schedule TOR-1 through TOR-7, which reflect the total estimated costs for the LNP project up to the in-service date. (Sue Hardison, Ken Karp sponsoring portions of Schedules TOR-4, TOR-6 (with John Elnitsky) & TOR-6A, and John Elnitsky sponsoring all of Schedule TOR-7)
TGF-4	Thomas G. Foster	CONFIDENTIAL - Schedules AE-1 through AE-7B and Appendixes A through E, which reflect PEF's retail revenue requirements for the CR3 Uprate Filing from January 2010 through December 2010 ** (Jon Franke sponsoring portions of Schedules AE-4, AE-4A, AE-6.3 and Appendix B, and sponsoring all of Schedules AE-6A.3, AE-6B.3, AE-7, AE-7A and AE-7B)
TGF-5	Thomas G. Foster	CONFIDENTIAL - Schedules P-1 through P-8 and Appendixes A through E, which reflect PEF's projected retail revenue requirements for the Crystal River Unit 3 (CR3) Uprate filing for January 2011 through December 2011 (Jon Franke sponsoring portions of P-4 , P-6.3, P-6.3A, P-7, P-7A & P-7B and portions of Appendixes D & E)
TGF-6	Thomas G. Foster	CONFIDENTIAL - Schedules TOR-1 through TOR-7, which reflect the total estimated costs for the CR3 Uprate project up to the in-service date. (Jon Franke sponsoring portions of TOR-6 and all of Schedules TOR-6A and TOR-7)
JF-1	Jon Franke	Table Summarizing Fuel Savings Comparisons and Options for CR3 Uprate Project
JF-2	Jon Franke	Table Showing Low-Pressure Turbine Options
JE-1	John Elnitsky	CONFIDENTIAL – Correspondence between PEF and Shaw & Webster, Inc., April 30, 2009

JE-2	John Elnitsky	CONFIDENTIAL – SMC Presentation, March 8, 2010
JE-3	John Elnitsky	CONFIDENTIAL – Levy Nuclear Project Timeline
JE-4	John Elnitsky	CONFIDENTIAL – Long Lead Equipment Information
PDG-1	Dr. Patricia Galloway	Dr. Galloway’s Curriculum Vitae
PDG-2	Dr. Patricia Galloway	Dr. Galloway’s Nuclear Power Plant Experience
PDG-3	Dr. Patricia Galloway	Dr. Galloway’s Non-Nuclear Power Plant Experience
PDG-4	Dr. Patricia Galloway	Management Performance and prudence audits, evaluations and assessments of project-specific and corporate risk involving testimony in regulatory proceedings
PDG-5	Dr. Patricia Galloway	Management Performance and prudence audits, evaluations and assessments of project-specific and corporate risk not involving testimony in regulatory proceedings
JL-1	Jeff Lyash	Letters from NRC to PEF, with Status Reports, Docket Nos. 52-029 and 52-030 before the Atomic Safety and Licensing Board
JL-2	Jeff Lyash	Excerpts of Reports from Credit Rating Agencies
JL-3	Jeff Lyash	Updated Life-Cycle Net Present Worth (CPVRR) Assessment
JL-4	Jeff Lyash	Illustrative Example of LNP Bill Impact, showing 2019 and 2021 In-Service Dates
JL-5	Jeff Lyash	Illustrative Example of LNP and DSM Bill Impact, showing 2019 and 2021 In-Service Dates
JL-6	Jeff Lyash	CONFIDENTIAL – SMC Presentation, February 15, 2010

3. REBUTTAL TESTIMONY EXHIBITS.

<u>Exhibit Number</u>	<u>Witness</u>	<u>Description</u>
JF-3	Jon Franke	Excerpt of Jacobs direct testimony, pg. 26, in Docket 090009
JF-4	Jon Franke	Excerpts of Franke rebuttal testimony, pp. 9-12, in Docket 090009
JF-5	Jon Franke	CONFIDENTIAL - Change Order 23 to Work Authorization No. 84 between PEF and AREVA for the LAR portion of the Work Authorization
JF-6	Jon Franke	CONFIDENTIAL - Change Order 25 to Work Authorization No. 84 between PEF and AREVA for the LAR portion of the Work Authorization
JF-7	Jon Franke	CONFIDENTIAL - Work Authorization No. 84 between PEF and AREVA for design and engineering work to support the CR3 Uprate project, including work to support the LAR
JF-8	Jon Franke	CONFIDENTIAL - EPU Expert Panel November 6, 2009 Management Debrief
JF-9	Jon Franke	April 13, 2009 NRC letter to PEF regarding the CR3 Uprate project
JE-5	John Elnitsky	PEF's interrogatory response to OPC Interrogatory No. 46
JE-6	John Elnitsky	CONFIDENTIAL – Summary of costs of cancellation at receipt of Combined Operating License option
JE-7	John Elnitsky	Direct Testimony and Exhibits of William R. Jacobs, Jr., Ph.D. before the Georgia Public Service Commission in the Matter of: Georgia Power Company's Second Semi-Annual Vogtle Construction Monitoring Report, Docket No. 29849
JE-8	John Elnitsky	June 9, 2010 Remarks by Kristine L. Sviniki, Commissioner, U.S. Nuclear Regulatory Commission
JE-9	John Elnitsky	February 16, 2010 Remarks by President Obama

regarding new nuclear generation development

JE-10	John Elnitsky	Bar Chart of LNP requests for additional information (“RAIs”) received by PEF by month between November 2008 and March 2010
JE-11	John Elnitsky	CONFIDENTIAL – EPC Agreement and amendments. I sponsor and propose for identification the EPC agreement and amendments for use at the final hearing subject to the Commission’s requirements for the use of confidential exhibits at Commission hearings. The EPC agreement and amendments are subject to strict contractual conditions of confidentiality, however they have been made available pursuant to those contractual conditions to the Commission staff and intervening parties who have requested to view them, and have been filed in this docket pursuant to a confidentiality request.
JL-7	Jeff Lyash	CONFIDENTIAL – Excerpts of Jacobs testimony in Docket 090009, pp. 6-9, 11, 17
JL-8	Jeff Lyash	November 19, 2009 Final Order Approving Nuclear Cost Recovery Amounts for Florida Power & Light Company and Progress Energy Florida, Inc., Order No. PSC-09-0783-FOF-EI in Docket No. 090009-EI
JL-9	Jeff Lyash	CONFIDENTIAL - Excerpt of Jeff Lyash rebuttal testimony in Docket No. 090009-EI, p. 22
JL-10	Jeff Lyash	Excerpt of Jeff Lyash rebuttal testimony in Docket No. 090009-EI, pp. 15-17

D. PEF’S STATEMENT OF BASIC POSITION:

CR3 Uprate Project.

The Florida Public Service Commission (“FPSC” or “Commission”) granted the need determination for the Crystal River 3 (“CR3”) Extended Power Uprate Project (“CR3 Uprate”) on February 8, 2007. The CR3 Uprate project is a three-phase project involving the engineering, design, equipment procurement, and equipment installation necessary to generate an additional, estimated 180 MWe of efficient nuclear power at the Company’s existing nuclear unit. The work necessary for this project was divided into three phases to be performed during separate, planned re-fueling outages at CR3. The first phase of the work was successfully completed during the 2007 CR3 refueling outage and it was brought online in January, 2008, providing PEF

and its customers with an additional 12 MWe of nuclear energy generation. The second phase of the work, called the balance of plant ("BOP") work, was planned for the 2009 CR3 refueling outage. The BOP work performed during the 2009 CR3 refueling outage was successfully completed on schedule and on budget for that phase. When CR3 returns to service the BOP phase work will yield an additional 4 MWe nuclear energy production.

PEF is currently performing the engineering and design analyses, and identifying and procuring the material and equipment, necessary to complete the third and final phase of the CR3 Uprate. This is called the Extended Power Uprate ("EPU") work phase because, upon completion of the EPU work and Nuclear Regulatory Commission ("NRC") approval of the Company's License Amendment Request ("LAR") for the power uprate, the Company will be able to increase the power generated by an additional 164 MWe. This work will be performed during the next refueling outage for CR3. PEF expects the EPU phase of the CR3 Uprate project to be successfully completed and the LAR approved by the NRC.

Pursuant to Section 366.93, Florida Statutes, and Rule 25-6.0423, F.A.C., PEF filed a petition on March 1, 2010, for cost recovery of its CR3 Uprate project costs. PEF also filed certain Nuclear Filing Requirement ("NFR") schedules, specifically Schedules T-1 through T-7B and Appendices, in support of PEF's actual costs for 2009. In addition, on March 1, 2010, PEF filed testimony regarding the CR3 Uprate costs and the Company's project management and cost oversight policies and procedures. PEF then filed, on April 30, 2010, a petition, additional testimony, and NFR schedules AE-1 through AE-7B and P-1 through P-8 and Appendices, for years 2010 and 2011, respectively, in support of PEF's actual/estimated costs for 2010 and projected costs for 2011 and schedules TOR-1 through TOR-7, which reflect total project estimated costs.

PEF developed and utilized reasonable and prudent project management policies and procedures to carry out the CR3 Uprate project. These procedures are designed to ensure timely and cost-effective completion of the project. Pursuant to these policies, PEF conducted regular status meetings, both internally and with its vendors. PEF also engaged in regular risk assessment, evaluation, and management. For each of the contracts issued in 2009, PEF issued a Request for Proposal ("RFP") to solicit bids from various vendors or, in those circumstances when a sole source vendor was used, PEF followed its contractor selection procedures and justified its sole source contracts with adequate and reasonable rationale. PEF also included reasonable contractual terms in its contracts to ensure proper risk allocation and adequate protection for the Company and its customers. PEF requests that the Commission find that its project management, contracting and oversight controls for 2009 were reasonable and prudent.

PEF also developed and utilized reasonable and prudent accounting and cost oversight controls. These procedures are designed to ensure that the Company appropriately allocates and tracks costs for the CR3 Uprate. Pursuant to these policies, PEF submitted its actual 2009 costs and developed and submitted its actual/estimated 2010 costs and projected 2011 costs. PEF therefore also requests that the Commission find that its accounting and cost oversight controls for 2009 were reasonable and prudent.

PEF reasonably and prudently incurred capital construction costs associated with the CR3 Uprate in 2009 in the amount of \$118,140,493. Neither Office of Public Counsel (“OPC”) witness William Jacobs, Jr., Ph.D. (“Jacobs”) nor Audit Staff challenge the prudence of any specific, actual costs incurred for the BOP Phase 2 work that was performed during the most recent CR3 refueling outage in 2009 for the CR3 Uprate. PEF requests that the Commission approve the prudence of these 2009 costs.

Intervener witness Jacobs expresses general concerns regarding the technical complexity of the project and the LAR submittal schedule, but Jacobs does not recommend that the Company stop work on the EPU at all or until the NRC approves the LAR, and does not claim, therefore, that the Company’s current project schedule is imprudent. Jacobs further does not claim that the EPU phase work cannot be successfully completed or that the LAR for the EPU will not be approved by the NRC. Jacobs nowhere claims in his testimony that continued work on the EPU phase is imprudent. Jacobs recommends that the Commission require PEF to provide an updated feasibility analysis and demonstrate that PEF’s project schedule was prudent next year based on the results of the NRC’s future review of the LAR for the CR3 Uprate. This recommendation is premised on Jacobs’ misconception that the design, engineering, and procurement of equipment for the EPU can be separated from the preparation of the LAR for NRC review and approval to reduce the risk of investment in the project before LAR approval. This is the same argument Jacobs asserted in last years NCRC docket. The Commission did not accept this position last year when it approved PEF’s requested cost recovery for the CR3 Uprate project and it should not accept this position this year. See Commission Order No. PSC-09-0783-FOF-EI. This position is simply inconsistent with the necessary structure of the CR3 Uprate project work to successfully complete the project and achieve the power uprate.

Staff makes three recommendations in the Staff testimony and the Audit Staff Report. Two of these recommendations relate to discrete cost or equipment item issues that have now been resolved at no additional cost to the Company or customers at this time as is explained in detail in the direct and rebuttal testimony of Jon Franke. The third recommendation reflects Staff’s concerns regarding the impact of the current extended outage at CR3 on the CR3 Uprate project costs; however, there are no increased cost impacts as a result of this event in the Company’s actual/estimated or projected costs for the CR3 Uprate project in this docket. The Company’s actual/estimated and projected costs were prepared based on the CR3 Uprate project schedule that existed before the impacts of the extended CR3 outage on the CR3 Uprate project schedule were known. This concern, therefore, is not an issue in this proceeding.

PEF has reasonably estimated and projected its CR3 Uprate capital construction costs for 2010 and 2011, in the amount of \$66,334,227 and \$67,828,699, respectively. PEF developed these cost estimates using actual contract figures and project schedule milestones. These costs will be necessary to ensure that the Company can complete the project during the next planned refueling outage. PEF requests that the Commission find its 2010 actual/estimated and 2011 projected CR3 Uprate costs are reasonable.

Pursuant to Rule 25-6.0423(5)(c)5, PEF has also demonstrated the long-term feasibility of completing the CR3 Uprate project. As demonstrated in the direct testimony of Jon Franke, the Company analyzed qualitative and quantitative factors necessary to determine if the CR3

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Uprate project remains feasible going into Phase 3 and determined that the CR3 Uprate project remains feasible. Consequently, PEF requests that the Commission approve its feasibility analysis for the CR3 Uprate project.

Levy Nuclear Project

This Commission unanimously voted to approve the need determination for the Levy Nuclear Project ("LNP") on July 15, 2008, and it issued its final order on August 12, 2008. The LNP will generate more than 2,000 megawatts of new nuclear generation for the benefit of PEF, its customers, and the State of Florida. Pursuant to Section 366.93, Florida Statutes, and Rule 25-6.0423, F.A.C., PEF filed a petition on March 1, 2010, for cost recovery of its LNP costs. PEF also filed certain Nuclear Filing Requirement ("NFR") schedules, specifically Schedules T-1 through T-7B, in support of PEF's actual costs for 2009. In addition, on March 1, 2010, PEF filed testimony regarding the LNP costs and the Company's project management policies and procedures. PEF then filed, on April 30, 2010, a petition, additional testimony, and NFR schedules AE-1 through AE-7B and P-1 through P-8 and Appendices, for years 2010 and 2011, respectively, in support of PEF's actual/estimated and projected costs and schedules TOR-1 through TOR-7, which reflect total project estimated costs.

PEF developed and utilized reasonable and prudent project management policies and procedures to carry out the LNP. These procedures are designed to ensure timely and cost-effective completion of the project. Pursuant to these policies, PEF conducted regular status meetings, both internally and with its vendors. PEF also engaged in regular risk assessment, evaluation, and management. PEF included reasonable contractual terms in its contracts to ensure proper risk allocation and adequate protection for the Company and its customers. PEF therefore requests that the Commission find that its project management, contracting and oversight controls for 2009 were reasonable and prudent.

PEF also developed and utilized reasonable and prudent accounting and cost oversight controls. Pursuant to these policies, PEF developed its actual 2009 costs and 2010 and 2011 cost estimates based on the best information available to the Company. The estimates take into account the Company's decision regarding the LNP. PEF therefore requests that the Commission find that its accounting and cost oversight controls for 2009 were reasonable and prudent.

PEF reasonably and prudently incurred capital preconstruction and construction costs for the LNP in the amount of [REDACTED] for 2009. The prudence of all costs incurred in 2009 have been supported by PEF's testimony and exhibits filed in this proceeding. Not a single Staff or intervenor witness contends that any of the actual costs the Company incurred for the LNP for 2009 are imprudent. Accordingly, PEF requests that the Commission approve the prudence of these costs.

PEF has also reasonably estimated and projected its capital preconstruction and construction LNP costs for 2010 and 2011, in the amount of [REDACTED] and [REDACTED] respectively. None of the Staff or intervenor witnesses identify any specific, actual/estimated

2010 or projected 2011 LNP cost that is not reasonable. The actual/estimated 2010 and projected 2011 LNP costs reflect the Company's decision regarding the LNP schedule and its focus on obtaining key state and federal permits for the LNP.

OPC witness Jacobs does assert that the Commission "might" want to consider placing "some" of PEF's proposed expenditures at risk if they believe PEF has not prudently evaluated the LNP options. But, again, Jacobs nowhere says that any of the projected 2011 LNP costs are unreasonable for any specific reason, nor does he identify any particular amount that he claims should be placed "at risk." Intervener Southern Alliance for Clean Energy ("SACE") witnesses Cooper and Gundersen argue the LNP is not feasible, that it should be cancelled, and that customers should not have to pay any "additional" costs. However, they nowhere identify in their testimony what these specific "additional" costs are that they claim customers should not pay. Moreover, they also do not challenge PEF's specific testimony that its 2011 projected costs are reasonable. Rather, they assert additional costs should not be recovered solely because they believe the LNP is not feasible. Because PEF has demonstrated that the LNP is feasible, as explained in detail in the direct and rebuttal testimony of Mr. Lyash, there is no basis for the Commission to conclude PEF's projected 2011 costs are not reasonable. Therefore, PEF requests that its actual/estimated and projected costs for the LNP be approved as reasonable and included in the Company's capacity clause factor.

Pursuant to Rule 25-6.0423(5)(c)5, PEF demonstrated the long-term feasibility of completing the LNP. The Company employed a two-step process to determine if the LNP is feasible. First, the Company employed a qualitative analysis of the technical and regulatory capability of completing the plants, the risks, and the costs and benefits of completing the Levy nuclear power plants. The second step was an updated, quantitative cumulative life-cycle net present value revenue requirements ("CPVRR") economic analysis that includes comparisons to the cost-effectiveness CPVRR analysis in the Company's need determination proceeding for the LNP described in Order No. PSC-08-0518-FOF-EI. The Company's fuels, environmental, and load forecasts in its current feasibility analysis were performed in the same manner that the same forecasts were prepared in the previously-approved feasibility analysis. These Company forecasts were further prepared in a manner that is consistent with the forecast methodology approved by the Commission in other proceedings and dockets before the Commission. The updated CPVRR indicates that the LNP is economically viable and has the potential to provide PEF and its customers with fuel and environmental cost savings over the life of the project. The LNP is also feasible from a regulatory and technical perspective. The NRC is proceeding with the AP1000 design review towards a final rule approving that nuclear reactor design and the NRC is proceeding with its review of the LNP Combined Operating License Application ("COLA") towards issuance of the LNP Combined Operating License ("COL"). There are no technical design issues that have side-tracked this on-going NRC licensing review and there is no indication that any technical issue with respect to the AP1000 design will prevent the successful completion of these licensing activities and the application of that nuclear reactor design to the LNP site.

In addition to determining that the LNP is still feasible, the Company analyzed whether proceeding with the LNP at this time is in the best interests of the Company and its customers. The Company evaluated the options reasonably available to it under the circumstances and

concluded that LNP work except work necessary to obtain key federal permits, in particular, the COL, and the completion of certain long lead time equipment work where most cost-effective to do so, should be suspended until the LNP COL is obtained. This is the most reasonable course of action at this time and is the right decision for the Company and its customers.

This decision mitigates near term price increases to customers by pushing out near-term LNP costs – costs in excess of one billion dollars – to the period after the LNP COL is obtained while preserving the long-term benefits of greater fuel diversity, greenhouse gas emissions reductions, and additional base load nuclear generation for PEF’s customers. Intervener witness Jacobs believes PEF’s evaluation of the LNP options was incomplete because he assesses the LNP risks differently and appears to prefer project cancellation although he never expressly states that is his preferred decision. The fact that OPC witness Jacobs would have made a different decision does not mean that PEF’s decision was unreasonable or imprudent. PEF’s decision was reasonable and prudent for all the reasons provided in Mr. Lyash and Mr. Elnitksy’s direct and rebuttal testimony.

For all these reasons, as more fully developed in PEF’s pre-filed testimony and exhibits, including its NFR Schedules, PEF respectfully requests that the Commission grant cost recovery for PEF’s CR3 Uprate and Levy Nuclear Projects.

E. PEF’S STATEMENT OF ISSUES AND POSITIONS:

1. LEGAL/POLICY ISSUES.

ISSUE 1: Do FPL’s activities related to Turkey Point Units 6 & 7 qualify as “siting, design, licensing, and construction” of a nuclear power plant as contemplated by Section 366.93, F.S.?

PEF has no position. This issue relates to FPL only.

ISSUE 2: Do PEF’s activities related to Levy Units 1 & 2 qualify as “siting, design, licensing, and construction” of a nuclear power plant as contemplated by Section 366.93, F.S.?

PEF Position:

Yes. Section 366.93 of the Florida Statutes, clearly provides that all costs associated with siting, design, licensing, and construction of a nuclear power plant are recoverable. The statute further provides that “costs” which are recoverable by a utility include but are not limited to, “all capital investments, including rate of return, any applicable taxes, and all expenses, including operation and maintenance expenses, related to or resulting from the siting, licensing, design, construction, or operation of the nuclear power plant.” See Section 366.93(1)(a). This is an intentionally broadly worded

statutory definition encompassing “all costs” for the underlying activities, namely, the “siting, licensing, design construction, or operation of the nuclear power plant.” On its face, then, the statute contemplates, and common sense dictates, that a utility will move through these stages concurrently but also in sequence at times over an ultimately unfixd time period -- from siting to ultimate construction. Costs for licensing activities for a nuclear power plant necessarily fall within recoverable costs under the statute whether those costs are incurred in isolation or in concert with costs for other activities for a nuclear power plant and its associated transmission facilities.

Moreover, the statute explicitly mandates that the Commission establish “alternative cost recovery mechanisms for the recovery of costs incurred in the siting, design, licensing, and construction of a nuclear power plant” ... and contemplates expressly that “[s]uch mechanisms shall be designed to promote utility investment in nuclear....” See *id.* at subparagraph (2). An interpretation that recognizes that costs for licensing activities for a nuclear power plant are recoverable whether or not those costs are in connection with other activities for the nuclear power plant is consistent with this express legislative intent.

The LNP is an active project under an existing NRC licensing application and construction contract. PEF executed its Engineering, Procurement and Construction (“EPC”) contract with Westinghouse and Shaw, Stone & Webster (the “Consortium”), on December 31, 2008 to build two AP1000 nuclear power plants on a site in Levy County. As described in the direct testimony of Mr. Elnitsky, Mr. Lyash, and Ms. Hardison, all costs incurred by PEF in 2009 and contemplated for 2010 and 2011 for the LNP are specifically related to the siting, licensing and/or design of the Levy nuclear plants. These activities are consistent with the efforts to actively pursue the development and construction of a new nuclear power plant. That is in fact what PEF is doing. PEF has an EPC contract for the design and construction of the LNP that is still in effect. PEF has only amended that EPC contract to extend the partial suspension. In other words, PEF has slowed down the project but it is still very much an active project.

ISSUE 3: Does the Commission have the authority to require a “risk sharing” mechanism that would provide an incentive for a utility to complete a project within an appropriate, established cost threshold? If so, what action, if any, should the Commission take?

PEF Position:

No, it does not. The “risk sharing” mechanism is not defined but it appears what is intended as the incentive for a utility to complete a nuclear power

plant project within an undefined, “appropriate” cost threshold is that the utility would not recover all or part of the costs above this threshold and, therefore, share the risk with customers of cost increases above the threshold even if those costs were prudently incurred for the nuclear power plant project. This is inconsistent with and contravenes the express statutory authority for cost recovery for a nuclear power plant project and the regulatory compact inherent in Chapter 366.

The nuclear cost recovery clause proceeding is governed by the express legislative authority in Section 366.93. Section 366.93 clearly provides the scope of the Commission’s authority in this proceeding. That scope is the development of alternative cost recovery mechanisms for the recovery of all costs prudently incurred for the siting, licensing, construction, and operation of a nuclear power plant and its associated transmission facilities. The Commission cannot depart from this scope by rule or order to alter the utility’s ability to recover prudently incurred costs for a nuclear power plant according to an unspecified “risk sharing” mechanism that apparently means the utility will not recover prudently incurred costs for the project under certain conditions. A utility under Section 366.93 is entitled to recover costs reasonably and prudently incurred for a nuclear power plant project. If the Commission does find that it has this authority, it nonetheless should take no action and should not establish any such mechanism for the reasons stated above.

2. FACTUAL ISSUES

PEF’s Project Management and Oversight

ISSUE 4: Should the Commission find that for the year 2009, PEF’s accounting and costs oversight controls were reasonable and prudent for the Levy Units 1 & 2 project and the Crystal River Unit 3 Uprate project?

PEF Position:

Yes, PEF’s accounting and costs oversight controls were reasonable and prudent for the CR3 Uprate project and the LNP. The Company has appropriate, reasonable project accounting controls, project monitoring procedures, disbursement services controls, and regulatory accounting controls. Pursuant to these controls, PEF regularly conducts analyses and reconciliations to ensure that proper cost allocations and contract payments have been made. (Garrett, Hardison, Karp, Franke).

ISSUE 5: Should the Commission find that for the year 2009, PEF's project management, contracting, and oversight controls were reasonable and prudent for the Levy Units 1 & 2 project and the Crystal River Unit 3 Uprate project?

PEF Position:

Yes, for the year 2009, PEF's project management, contracting, and oversight controls were reasonable and prudent for the CR3 Uprate project and the LNP. These procedures are designed to ensure timely and cost-effective completion of the project. They include regular status meetings, both internally and with its vendors. These project management and oversight controls also include regular risk assessment, evaluation, and management. There are also adequate, reasonable policies regarding contracting procedures. (Franke, Hardison, Karp, Doughty, Elnitsky).

PEF's Project Feasibility

ISSUE 6: Should the Commission approve what PEF has submitted as its annual detailed analysis of the long-term feasibility of completing the Levy Units 1 & 2 project, as provided for in Rule 25-6.0423, F.A.C? If not, what action, if any, should the Commission take?

PEF Position:

Yes, the Commission should approve what PEF has submitted as its annual detailed analysis of the long-term feasibility of completing the LNP. With the testimony of Jeff Lyash, PEF submitted a detailed analysis setting forth the long term feasibility of completing the LNP, consistent with the requirements of Rule 25-6.0423 and the analysis this Commission approved last year. First, the Company employed a qualitative analysis of the technical and regulatory capability of completing the plants, the risks, and the costs and benefits of completing the Levy nuclear power plants. As part of this analysis, the Company demonstrated that the LNP is feasible from a regulatory and technical perspective. The second step was an updated CPVRR economic analysis. The updated CPVRR indicates that the LNP is economically viable and has the potential to provide PEF and its customers with fuel and environmental cost savings over the life of the project. The Company has demonstrated that the LNP is feasible.

If the Commission does not approve what PEF has submitted as its annual detailed analysis of the long-term feasibility of completing the LNP based on a perceived technical deficiency in PEF's filing, the Commission should specifically identify the nature of its perceived deficiencies in PEF's analysis and permit PEF to re-file with the additional requested information.

If the Commission finds that PEF's filing is technically acceptable but that the LNP is not feasible going forward on substantive grounds, the Commission's determination would preclude the Company from completing the construction of the LNP and the Commission should award PEF cost recovery of its prudent 2009 costs and reasonable 2010 costs as well as reasonable project exit costs pursuant to Section 366.93(6). (Lyash).

ISSUE 7: Is PEF's decision to continue pursuing a Combined Operating License from the Nuclear Regulatory Commission for Levy Units 1 & 2 reasonable? If not, what action, if any, should the Commission take?

PEF Position:

Yes, it is. This decision was the result of a deliberate, rational, decision-making process consistent with best management practices in the utility industry. PEF employed the contractual mechanisms under the EPC contract to initiate this process and obtain the information needed to make an informed decision. PEF obtained this information from the Consortium, analyzed and evaluated this information, and considered all relevant factors including the enterprise risks beyond its control that could affect the decision regarding this project. The Company's assessment of the risks led the Company to focus on the costs of each evaluated option over a three-year project continuation period. This three-year period corresponded to the expected licensing period and, therefore, allowed PEF to focus on deferring capital investment, if possible, during this period to mitigate the risk of exposing substantial capital investment to the uncertainties associated with the licensing on the project. As a result of this analysis, PEF narrowed the options down to project cancellation or continuation under an extended partial suspension to focus work on obtaining the COL. PEF decided to continue with the LNP only when PEF was able to obtain favorable terms to amend the EPC contract and implement an extended partial suspension to focus the work on obtaining the LNP COL. PEF reasonably and prudently made its decision based on this assessment of the LNP costs, benefits, and risks.

This process was reasonable and prudent and necessary to make a decision that was in the best interests of the Company and its customers. Indeed, for all the reasons that Mr. John Elnitsky and Mr. Jeff Lyash provide in their direct and rebuttal testimony, PEF believes this decision was in the best interests of the Company and its customers.

If the Commission determines that PEF's decision is not reasonable and that PEF should cancel the LNP the Company is entitled to recover its prudent 2009 costs, reasonable 2010 costs, and reasonable project exit costs pursuant to Section 366.93(6). (Elnitsky, Lyash, Galloway).

ISSUE 8: Should the Commission approve what PEF has submitted as its annual detailed analysis of the long-term feasibility of completing the Crystal River Unit 3 Uprate project, as provided for in Rule 25-6.0423, F.A.C? If not, what action, if any, should the Commission take?

PEF Position:

Yes, the Commission should approve what PEF has submitted as its annual detailed analysis of the long-term feasibility of completing the CR3 Uprate project. As demonstrated in the direct and rebuttal testimony of Jon Franke, the Company analyzed qualitative and quantitative factors to determine if the CR3 Uprate project remains feasible going into Phase 3. The first two phases of the three phase Uprate project have been completed and no material issues are anticipated for Phase 3 which will be performed during the plant's next scheduled refueling outage. In addition, a number of permits and licenses are necessary for the Uprate and PEF is currently in line to accomplish these, including the LAR, in sufficient time to uprate the plant when the Phase 3 work is complete. The CR3 power uprate will provide customers substantial benefits for the extended life of the CR3 plant and enhanced fuel diversity on PEF's system. All of these benefits will be achieved and the full 180 MWe will be realized when the project is completed after the next CR3 refueling outage, and, therefore, the project is feasible. (Franke).

PEF's Crystal River Unit 3 Uprate Project

ISSUE 9: What system and jurisdictional amounts should the Commission approve as PEF's final 2009 prudently incurred costs and final true-up amounts for the Crystal River Unit 3 Uprate project?

PEF Position:

**Capital Costs (System) \$118,140,493; (Jurisdictional, net of joint owners) \$87,458,545.
O&M Costs (System) \$821,773; (Jurisdictional, net of joint owners) \$762,529.
Carrying Costs \$14,351,595 and a base revenue requirement of \$396,018.**

The net amount of -\$244,765 should be included in setting the allowed 2011 NCRC recovery. The 2009 variance is the sum of an O&M over-projection of \$9,999, under-projection of carrying charges of \$122,005 and an over-projection of adjustments of \$356,771. (Garrett, Franke).

REDACTED

ISSUE 10: What system and jurisdictional amounts should the Commission approve as PEF's reasonably estimated 2010 costs and estimated true-up amounts for the Crystal River Unit 3 Uprate project?

PEF Position:

Capital Costs (System) \$66,334,227; (Jurisdictional, net of joint owners) \$32,827,539.

O&M Costs (System) \$1,234,649; (Jurisdictional, net of joint owners) \$1,109,484.

Carrying Costs \$7,557,070 and a base revenue requirement of negative \$746,776.

The Commission should also approve an estimated 2010 EPU project true-up amount of \$2,379,874 to be included in setting the allowed 2011 NCRC recovery. The 2010 variance is the sum of an O&M under-projection of \$895,281, plus an under-projection of carrying charges of \$2,231,369 plus an under-projection of other adjustments of negative \$746,776. (Foster, Franke).

ISSUE 11: What system and jurisdictional amounts should the Commission approve as PEF's reasonably projected 2011 costs for the Crystal River Unit 3 Uprate project?

PEF Position:

Capital Costs (System) \$67,828,699; (Jurisdictional, net of joint owners) \$52,297,867.

O&M Costs (System) \$481,102; (Jurisdictional, net of joint owners) \$423,093.

Carrying Costs \$10,023,829 and a base revenue requirement of \$3,424,764. (Foster, Franke).

PEF's Levy Units 1 & 2 Project

ISSUE 12: What system and jurisdictional amounts should the Commission approve as PEF's final 2009 prudently incurred costs and final true-up amounts for the Levy Units 1 & 2 project?

PEF Position:

Capital Costs (System) [REDACTED] (Jurisdictional) \$255,963,530.

O&M Costs (System) \$4,500,975; (Jurisdictional) \$4,020,056.

Carrying Costs \$36,124,710 and a base revenue requirements of \$7,619.

REDACTED

The net amount of \$4,192,819 should be included in setting the allowed 2011 NCRC recovery.

The 2009 variance is the sum of over-projection preconstruction costs of \$8,749,309, plus an over-projection of O&M expenses of \$911,232 plus an under-projection of carrying costs of \$13,845,741, plus an under-projection of other adjustments costs of \$7,619. (Garrett, Karp, Hardison).

ISSUE 13: What system and jurisdictional amounts should the Commission approve as reasonably estimated 2010 costs and estimated true-up amounts for PEF's Levy Units 1 & 2 project?

PEF Position:

Capital Costs (System) [REDACTED]; (Jurisdictional) \$143,951,411.
O&M Costs (System) \$4,211,926; (Jurisdictional) \$3,687,427.
Carrying Costs \$50,652,578.

The Commission should also approve an estimated 2010 LNP project true-up amount of \$8,121,477 to be included in setting the allowed 2011 NCRC recovery.

The 2010 variance is the sum of an under-projection of Preconstruction costs of \$11,835,352, plus an over-projection of O&M expenses of \$745,625 plus an over-projection of carrying charges of \$2,968,249. (Foster, Karp, Hardison).

ISSUE 14: What system and jurisdictional amounts should the Commission approve as reasonably projected 2011 costs for PEF's Levy Units 1 & 2 project?

PEF Position:

Capital Costs (System) [REDACTED] (Jurisdictional) \$48,464,396.
O&M Costs (System) \$4,343,901; (Jurisdictional) \$3,823,883.
Carrying Charges \$46,378,950. (Foster, Karp, Hardison).

PEF's 2011 Capacity Cost Recovery Clause Amount

ISSUE 15: What is the total jurisdictional amount to be included in establishing PEF's 2011 Capacity Cost Recovery Clause factor?

PEF Position:

The total jurisdictional amount to be included in establishing PEF's 2011 Capacity Cost Recovery Clause factor should be \$163,580,660 (before

revenue tax multiplier). Please see Appendix A for a breakout of these costs. (Foster).

F. STIPULATED ISSUES.

None at this time.

G. PENDING MOTIONS.

None at this time.

H. PEF'S REQUESTS FOR CONFIDENTIAL CLASSIFICATION.

Document No.	Request	Date Filed
01339-10; 01501-10	First Request for Confidential Classification re: Hardison & Garrett Testimony and Exhibits WG-1 & WG-2	03/01/10 (Revised 3/04/10)
02378-10	Request for Confidential Classification re EPC Agreement	4/01/10
03150-10	Second Request for Confidential Classification re: responses OPC 1 st Pods Nos. 1, 3, 6-9, 11-13, 15-18, 20, 22, 24, 25, 27-29, 31, 32, 34, 35, 37, 38, 40-43 and 1 st Rogs Nos. 6 & 7	4/22/10
03253-10	Third Request for Confidential Classification re: responses OPC 2 nd Pods No. 44, 45, 46, 51 and 52 and 2 nd Rogs Nos. 9, 12, 14, 17, 18, 28, and 32	4/23/10
03259-10	Fourth Request for Confidential Classification re: responses to Staff's 1 st Req for Production Nos. 1 & 3 and 1 st Rog No. 1A	4/23/10
03541-10	Fifth Request for Confidential Classification re: April 30 th Petition, Testimony and Exhibits	4/30/10
03649-10 Undocketed	PEF Request for Confidential Classification re: Annual Status Report	4/30/10
04147-10	Progress Energy Florida's Request for Confidential Classification regarding Audit Control No. 10-006-2-1 Data Requests and Workpapers	5/17/10
04396-10	Progress Energy Florida's Sixth Request for Confidential Classification regarding Staff's Second Request for Production of Documents (Nos. 4-7) and Staff's Third Set of Interrogatories (Nos. 7-9)	5/25/10
04929-10	Progress Energy Florida's Seventh Request for Confidential Classification regarding Audit Control 10-006-2-2 Workpapers	6/14/10
04925-10	Progress Energy Florida's Eighth Request for Confidential Classification	6/14/10

	regarding PEF responses to OPC's Third Interrogatories Nos. 34-63 and Third Request for Production Nos. 54-73	
05208-10	Progress Energy Florida's Ninth Request for Confidential Classification re PEF Supplemental Responses to OPC Third Pods Nos. 61, 64, 65 and 71	6/23/10
052061-10	PEF's Tenth Request for Confidential Classification re: PEF responses OPC 4 th Interrogatories and 4 th Request for Production	6/23/10
05204-10	PEF's Eleventh Request for Confidential Classification re: PEF Supplemental Response OPC 3 rd Request for Production No. 54	6/23/10
05698-10	PEF's Twelfth Request for Confidential Classification re: Portions of documents and information provided to staff auditor during Audit No. PA 10-01-001	7/12/10
05701-10	PEF's Thirteenth Request for Confidential Classification re: Audit Report No. PA-10-01-001	7/12/10
05704-10	PEF's Fourteenth Request for Confidential Classification re: PEF's Responses to White Springs d/b/a PCS Phosphate First Set of Interrogatories Nos. 1-2	7/12/10
05707-10	PEF's Fifteenth Request for Confidential Classification re: PEF's Responses to Staff's 6 th Interrogatories Nos. 20-25	7/12/10
06022-10	PEF's Sixteenth Request for Confidential Classification re: Audit Control No. 10-01-001 Workpapers	7/22/10
06115-10	PEF's Seventeenth Request for Confidential Classification re: Jacobs Testimony	7/27/10
***	PEF's Eighteenth Request for Confidential Classification re: Rebuttal Testimony	8/3/10
***	PEF's Nineteenth Request for Confidential Classification re: Prehearing Statement	8/3/10
***	PEF's Twentieth Request for Confidential Classification re: Deposition of Jacobs	TBD
02524-10	Motion for Temporary Protective Order re: responses OPC 1 st Pods Nos. 1, 3, 6-9, 11-13, 15-18, 20, 22, 24, 25, 27-29, 31, 32, 34, 35, 37, 38, 40-43 and 1 st Rogs Nos. 6 & 7	4/6/10
02594-10	Second Motion for Temporary Protective Order Classification re; responses OPC 2 nd Pods No. 44, 45, 46, 51 and 52 and 2 nd Rogs Nos. 9, 12, 14, 17, 18, 28, and 32	4/7/10
04923-10	Third motion for temporary protective order of responses to OPC's 3rd request for PODs (Nos. 54, 56-58, 60-64, and 73), and OPC's 3rd set of interrogatories (Nos. 51, 53, 54, 61, and 62).	6/24/10

05215-10	Fourth Motion for Temporary Order	6/23/10
06237-10	Fifth Notice of Intent to Request Confidential Classification re: Deposition of William R. Jacobs, Jr., Ph.D.	7/30/10

I. REQUIREMENTS OF PREHEARING ORDER THAT CANNOT BE MET.

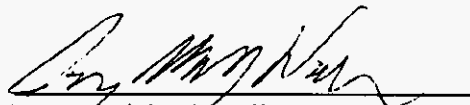
Because discovery is continuing in this matter, PEF must reserve the right to use witnesses and exhibits other than or different from those identified hereinabove, in order to respond to ongoing developments in the case. PEF further reserves the right to amend any of its positions to the issues to respond to any such ongoing developments in the case.

J. OBJECTIONS TO WITNESSES' QUALIFICATIONS

None.

Respectfully submitted this 3rd day of August, 2010.

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY a true and correct copy of the foregoing has been furnished to counsel and parties of record as indicated below via electronic and U.S. Mail this 3rd day of August, 2010.


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Issue 15				
CR3 2011 Uprate Revenue Requirement Summary				
	2009 True Up	2010 A/E True Up	2011 Projected	Total
O&M	(9,999)	895,281	423,093	1,308,375
Carrying Costs	122,005	2,231,369	10,023,829	12,377,203
Other Adjustments	(356,771)	(746,776)	3,424,764	2,321,217
Total Uprate 366.93 Revenue Requirements	(244,765)	2,379,874	13,871,686	16,006,795

Levy 2011 PEF Levy 1 & 2 Revenue Requirement Summary				
	2009 True Up	2010 A/E True Up	2011 Projected	Total
Site Selection & Preconstruction	(8,749,309)	11,835,352	25,056,735	28,142,778
O&M	(911,232)	(745,625)	3,823,883	2,167,026
Carrying Costs	13,845,741	(2,968,249)	46,378,950	57,256,442
Other	7,619	-	-	7,619
Total Levy 366.93 Revenue Requirements	4,192,819	8,121,478	75,259,568	87,573,865
Plus: 2011 Amortization of Proposed Deferral			60,000,000	60,000,000
Proposed Levy Revenue Requirements for 2011 CCRC				147,573,865

Proposed NCRC Revenue Requirements for 2011 CCRC	163,580,660
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