

April 30, 2012

Ann Cole, Director
Office of the Commission Clerk
PSC Recording & Filing
2540 Shumard Oak Blvd
Tallahassee, FL 32399

Re: In re: Nuclear Cost Recovery Clause
Docket No. 120009

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COMMISSION
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Dear Ms. Cole:

Enclosed for filing on behalf of Progress Energy Florida, Inc. are the following:

1. Progress Energy Florida, Inc.'s Petition for Approval of Nuclear Costs to be Recovered During the Period January-December 2013, Including Final True-Up for the Prior Recovery Periods, Actual/Estimated True-Up for the Period Ending December 2012, and Projections for the Period Ending December 2013 (original and 7 copies); **DN 02744-12**
2. Direct Testimony of Jeff Lyash on behalf of Progress Energy Florida (original and 15 copies); **DN 02745-12**
3. Direct Testimony of Jon Franke in Support of Actual/Estimated and Projected Costs (original and 15 copies); **DN 02746-12**
4. Direct Testimony of Thomas G. Foster in Support of Estimated/Actual, Projection and True-Up to Original Costs on behalf of Progress Energy Florida (original and 15 copies, Confidential Exhibits TGF-1 through TGF-5 are redacted); **DN 02747-12**
5. Redacted Direct Testimony of John Elnitsky on behalf of Progress Energy Florida (original and 15 copies); **DN 02748-12**
6. Progress Energy Florida's Second Request for Confidential Classification Regarding Portions of the Testimonies and Exhibits Filed as Part of the Company's April 30, 2012 Petition for Approval of Costs to be Recovered (original and 7 copies); and **DN 02749-12 - 02751-12**
7. Notice of Filing Affidavits in Support of Progress Energy Florida, Inc.'s Second Request for Confidential Classification (original and 7 copies). **DN 02752-12**

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Enclosures

Sincerely,

Blaise N. Gamba

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FPSC-COMMISSION CLERK

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Nuclear Cost Recovery
Clause

Docket No. 120009-EI
Submitted for Filing: April 30, 2012

PROGRESS ENERGY FLORIDA, INC.'S PETITION FOR APPROVAL OF NUCLEAR COSTS TO BE RECOVERED DURING THE PERIOD JANUARY-DECEMBER 2013, INCLUDING FINAL TRUE-UP FOR PRIOR RECOVERY PERIODS, ACTUAL/ESTIMATED TRUE-UP FOR THE PERIOD ENDING DECEMBER 2012, AND PROJECTIONS FOR THE PERIOD ENDING DECEMBER 2013

Pursuant to Section 366.93(3), Florida Statutes, and Rule 25-6.0423, Florida Administrative Code ("F.A.C."), Progress Energy Florida ("PEF" or the "Company") respectfully petitions the Florida Public Service Commission ("PSC" or the "Commission") for the recovery of PEF's costs for the (1) Levy Units 1 and 2 advanced design nuclear power plants (the "Levy Nuclear Project" or "LNP"), and (2) construction of the Crystal River Unit 3 ("CR3") nuclear plant power uprate project ("CR3 Uprate"). Under Section 366.93, Florida Statutes, and Rule 25-6.0423, F.A.C., PEF is entitled to recover \$151,776,225 through the Capacity Cost Recovery Clause ("CCRC") during the period January through December 2013 for the LNP and CR3 Uprate project, based on and supported by the testimony and exhibits of PEF's witnesses in this Nuclear Cost Recovery Clause ("NCRC") proceeding.

I. RECOVERY OF LNP AND CR3 UPRATE PROJECT NUCLEAR COSTS IN 2013 PURSUANT TO THE NUCLEAR COST RECOVERY STATUTE AND RULE.

Pursuant to the nuclear cost recovery statute and rule, PEF is entitled to recover \$151,776,225 through the CCRC during the period January through December 2013. This total amount of nuclear costs reflects (a) the true-up of prior period costs for the LNP and CR3 Uprate; (b) the projected pre-construction, recoverable operation and maintenance

("O&M"), and associated carrying charges for the construction of the LNP; (c) the amortization of \$88 million deferred balance for the LNP; (d) the projected carrying charges on construction costs for the construction of the LNP; and (e) the projected carrying charges on construction costs, recoverable O&M costs, and carrying charges on the deferred tax asset ("DTA") for the CR3 Uprate project. PEF's request to recover this total amount of nuclear costs for the LNP and CR3 Uprate is consistent with the Stipulation and Settlement Agreement ("Agreement") approved by the Commission in Order No. PSC-12-0104-FOF-EI in Docket No. 120022-EI. Accordingly, PEF requests a determination that all of PEF's prior period LNP and CR3 Uprate project costs are prudent and all of PEF's actual/estimated 2012 costs and projected 2013 costs for the LNP and CR3 Uprate project are reasonable. PEF supported the prudence of its prior period LNP and CR3 Uprate project costs with its petition, testimony, exhibits, and Nuclear Filing Requirements ("NFRs") filed with the Commission on March 1, 2012, which are hereby incorporated by reference. PEF further supports this petition with the direct testimony and exhibits of Messrs. Jeff Lyash, John Elnitsky, Thomas G. Foster, and Jon Franke, and the NFR schedules consistent with Rule 25-6.0423, F.A.C filed herewith and incorporated by reference.

II. PRELIMINARY INFORMATION.

1. The Petitioner's name and address are:

Progress Energy Florida, Inc.
299 1st Ave. N.
St. Petersburg, Florida 33701

2. Any pleading, motion, notice, order, or other document required to be served upon PEF or filed by any party to this proceeding should be served upon the following individuals:

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III. PRIMARILY AFFECTED UTILITY.

3. PEF is the utility primarily affected by the proposed request for cost recovery. PEF is an investor-owned electric utility, regulated by the Commission pursuant to Chapter 366, Florida Statutes, and is a wholly owned subsidiary of Progress Energy, Inc. The Company's principal place of business is located at 299 1st Ave. N., St. Petersburg, Florida 33701.

4. PEF serves approximately 1.6 million retail customers in Florida. Its service area comprises approximately 20,000 square miles in 35 of the state's 67 counties, encompassing the densely populated areas of Pinellas and western Pasco Counties and the greater Orlando area in Orange, Osceola, and Seminole Counties. PEF supplies electricity at retail to approximately 350 communities and at wholesale to about 21 Florida municipalities, utilities, and power agencies in the State of Florida.

5. In 2006, the Florida Legislature enacted Section 366.93, Florida Statutes, to encourage utility investment in nuclear electric generation through alternative cost recovery mechanisms established by the Commission. The Legislature required the design of cost recovery mechanisms that promoted utility investment in nuclear power plants and allowed for the recovery in rates of all prudently incurred costs.¹ Pursuant to this Legislative directive, the Commission adopted Rule 25-6.0423, F.A.C., in Order No. PSC-07-0240-FOF-EI, to establish the cost recovery mechanisms required by Section 366.93. PEF seeks cost recovery pursuant to Section 366.93 and Rule 25-6.0423 for the CR3 Uprate project and the LNP.

IV. PEF REQUESTS COST RECOVERY FOR THE CR3 UPRATE PROJECT AS PROVIDED IN SECTION 366.93, FLORIDA STATUTES, AND THE NUCLEAR COST RECOVERY RULE, RULE 25-6.0423, F.A.C.

6. On February 7, 2007, this Commission issued Order No. PSC-07-0119-FOF-EI, granting PEF's petition for determination of need for the expansion of the CR3 nuclear power plant through the CR3 Uprate project. The CR3 Uprate project is a multi-phase engineering and construction project to increase CR3's power output by approximately 180 megawatts ("MWs"). In 2007, PEF completed the first phase of the CR3 Uprate, which

¹ The Florida Legislature amended and reaffirmed its support of Section 366.93 twice, in 2007 and 2008, to include integrated gasification combined cycle plants and new, expanded, or relocated transmission lines and facilities necessary for the new power plants, respectively.

added 12 MWs. PEF completed work for the second phase of the CR3 Uprate during the 2009 CR3 re-fueling outage, which will add an additional 4 MWs to CR3's power output. The third and final phase of the CR3 Uprate project, the Extended Power Uprate ("EPU"), will increase CR3's power output by 164 MW to the full additional 180 MW power output. The joint owners of CR3 have indicated that they are electing to take their share of the additional uprate megawatts energy ("MWe"), and their share of the costs incurred to obtain these additional MWe. The remaining additional uprate MWe, and the resulting fuel savings, will be retained by PEF's customers.

7. The completion date of the final, EPU phase of the CR3 Uprate depends upon the CR3 containment building repair, subsequent to final design, engineering, and schedule development for the repair plan, which is expected to be complete later this year. PEF currently expects to repair CR3 and complete the EPU phase of the CR3 Uprate project. PEF's current schedule for the EPU phase will result in completion of the power uprate in the current CR3 outage concurrent with the completion of the CR3 containment building repair. Alternatively, PEF can complete the EPU phase in the subsequent CR3 re-fueling outage, after completion of the CR3 containment building repairs and CR3's return to commercial operation. Completion of the EPU phase of the CR3 Uprate project in either the current outage or the subsequent CR3 re-fueling outage is feasible.

8. Completion of the CR3 Uprate project is feasible from both a regulatory and technical perspective. The EPU License Amendment Request ("LAR") for the full power uprate was submitted to the Nuclear Regulatory Commission ("NRC") in mid-2011, accepted for review, and the NRC is conducting its license review. The LAR for the EPU phase is expected prior to the full power uprate. There currently is no technical impediment to the full

power uprate. The EPU phase is also economically feasible, whether the EPU phase is completed in the current outage or the subsequent CR3 re-fueling outage. There are substantial fuel savings for PEF's customers from completion of the EPU phase of the CR3 Uprate project, whether the EPU phase is completed in the current outage or next CR3 re-fueling outage, although the fuel savings are greater the earlier the EPU phase of the CR3 Uprate project is completed and placed in service. As a result, the Company's current schedule for the EPU phase is to complete the power uprate for the CR3 Uprate project in the current CR3 outage. Mr. Franke's testimony explains the CR3 Uprate project's feasibility, pursuant to Rule 25-6.0423(5) (c) 5, F.A.C.

9. PEF requests a prudence determination for PEF's 2011 CR3 Uprate project costs and 2011 accounting, project management, contracting, and cost oversight controls, pursuant to Commission Order No. PSC-11-0547-FOF-EI, issued on November 23, 2011. Based on this Order, the Commission granted the Company's motion to defer Commission review of PEF's 2011 (and 2012) CR3 Uprate project costs until the 2012 NCRC proceedings. PEF prudently incurred construction costs during 2011 for the EPU phase of its CR3 Uprate project and seeks to recover its carrying costs on these 2011 construction expenditures, pursuant to Section 366.93, Fla. Stat., and Rule 25-6.0423, F.A.C., in this proceeding. These costs were incurred for necessary engineering analyses for the engineering change packages for the EPU phase work, for long lead equipment ("LLE"), and for related licensing and project management work. The direct testimony and exhibits of Mr. Franke and Mr. Will Garrett filed on March 1, 2012 support the Company's request for a prudence determination and cost recovery pursuant to the nuclear cost recovery statute and rule for costs incurred in 2011 for the CR3 Uprate project.

10. Mr. Franke also provides testimony regarding PEF's 2011 CR3 Uprate project management, contracting, and cost oversight controls policies and procedures. Mr. Franke explains that these policies and procedures are designed to manage the project, project costs, and maintain the project schedule, and that they are reasonable and prudent. Mr. Garrett provides testimony regarding the 2011 CR3 Uprate project accounting and cost oversight controls and explains why they are prudent.

11. CR3 Uprate project costs were incurred for the first quarter of 2012, and will continue to be incurred for the remainder of 2012 and 2013. These costs are related to activities that are necessary for completion of the CR3 Uprate project work under the current project schedule. They further include costs for EPU phase activities that must be incurred under either option for completion of the EPU phase of the CR3 Uprate project, whether in the current outage or the next, scheduled CR3 re-fueling outage. These costs include prior contractual commitments for progress payments on LLE for the EPU phase. They also include costs for the NRC EPU LAR licensing review that must be incurred to obtain NRC approval of the EPU LAR. All 2012 and 2013 costs for the EPU phase work are reasonable and necessary for completion of the EPU phase of the CR3 Uprate project. The direct testimony and exhibits of Mr. Foster and Mr. Franke, filed contemporaneously with this petition, supports the actual/estimated and projected costs for 2012 and 2013, respectively, and explain the reasonableness of these costs for the CR3 Uprate project.

12. PEF requests that, pursuant to Rule 25-6.0423, F.A.C., the Commission find that PEF's 2011 CR3 Uprate project costs were prudently incurred, that PEF's 2012 actual/estimated and 2013 projected CR3 Uprate project costs are reasonable, and allow recovery, through the CCRC, of the carrying costs associated with the construction costs,

carrying cost on the deferred tax balance, and CCRC recoverable O&M expenditures, as provided in Section 366.93, Florida Statutes and consistent with the nuclear cost recovery rule, Rule 25-6.0423, F.A.C. The revenue requirements to be collected in 2013 associated with these costs total \$49.0 million. Detailed descriptions of these expenditures, the estimated and projected costs, the contracts executed, the carrying costs, and the other information required by Rule 25-6.0423(8) F.A.C., are provided in PEF's pre-filed testimony, exhibits, and NFR schedules. Accordingly, PEF requests that the Commission approve as prudent PEF's actual 2011 CR3 Uprate project costs and approve as reasonable PEF's actual/estimated and projected CR3 Uprate project costs for 2012 and 2013, and authorize recovery in the CCRC, pursuant to Section 366.93, Florida Statutes, and Rule 25-6.0423, F.A.C.

V. PEF REQUESTS COST RECOVERY FOR THE LEVY NUCLEAR PROJECT AS PROVIDED IN SECTION 366.93, FLORIDA STATUTES, AND THE NUCLEAR COST RECOVERY RULE, RULE 25-6.0423, F.A.C.

A. Background for the LNP Decision.

13. On August 12, 2008, the Commission approved PEF's petition for an affirmative determination of need for the LNP and associated transmission facilities, pursuant to Section 403.519(4), Florida Statutes. See Order No. PSC-08-0518-FOF-EI. The LNP will consist of two Westinghouse AP1000 nuclear-fueled generating units and associated facilities, including associated transmission facilities.

14. In the 2010 NCRC proceeding, the Commission determined that PEF's decision to amend the Engineering, Procurement, and Construction ("EPC") Agreement for the LNP to focus work on obtaining the LNP Combined Operating License ("COL") and defer most other LNP work until the COL for the LNP is obtained was reasonable. In the

2011 NCRC proceeding, the Commission determined that PEF prudently incurred its actual 2010, and reasonably incurred its actual/estimated 2011 and projected 2012, LNP preconstruction costs and construction costs implementing this Company decision. The Commission further reviewed the Company's on-going qualitative and quantitative feasibility analysis demonstrating that the LNP is feasible and concluded that the LNP is feasible.

15. In 2011, PEF incurred costs for licensing application and engineering activities to support the LNP Combined Operating License Application ("COLA"), environmental permitting, and conditions of certification for the LNP. PEF also incurred costs for engineering and procurement activities under the EPC Agreement and for the disposition of LLE Purchase Orders ("PO"). The March 1, 2012 testimony and exhibits of Mr. Daryl O'Cain and Mr. Garrett provided further details relating to the prudence of these and other costs incurred for the LNP in 2011. Mr. O'Cain also provides testimony regarding the prudence of PEF's 2011 LNP project management, contracting, and cost oversight controls policies and procedures. Mr. Garrett provides testimony regarding the prudence of the 2011 LNP accounting and cost oversight controls.

16. The Company's on-going, annual LNP qualitative and quantitative feasibility analysis continues to demonstrate that the LNP is feasible. Prudent project management, however, does not end with the determination that the LNP is feasible; rather, the Company must still determine how best to implement the LNP for the benefit of the Company and its customers. As the Company explained last year, the Company evaluates the LNP each year and with any major change in the project enterprise risks or project schedule, scope, or cost as part of its on-going obligation to prudently manage the LNP. This evaluation includes the

feasibility analyses of completing the LNP, but the Company also takes a broader view to determine how to complete the LNP in the best interests of the Company and its customers.

17. The Company completed its on-going evaluation of the feasibility of completing the LNP and the most beneficial implementation of the LNP for the Company and its customers. The Company's qualitative and quantitative feasibility analysis, as described in more detail below and in the testimony of Mr. Elnitsky and Mr. Lyash, demonstrates continued near-term uncertainty and risk despite the long-term feasibility of the LNP and the continued, long-term benefits of nuclear power generation for the Company's customers. The LNP will still provide long-term fuel savings benefits to customers and increased Florida and PEF fuel diversity, reduced reliance on fossil fuels, especially from foreign sources, and carbon-free, base load generation. Near-term, however, there is greater qualitative uncertainty and increased enterprise risk. As a result of this uncertainty and increased enterprise risk, based on the Company's analyses, the Company evaluated an extension of the current suspension of the LNP.

B. LNP Feasibility Analysis.

18. Regulatory feasibility. The LNP is feasible from a regulatory perspective. All legal and regulatory licenses and permits for the LNP have been or can be obtained. The NRC and the Advisory Committee on Reactor Safeguards ("ACRS") reviewed the AP1000 reactor design and declared that it is safe and meets all regulatory requirements. In December 2011, the NRC completed the AP1000 Design Control Document ("DCD") review and issued the final rule approving the AP1000 nuclear reactor design. Further, on February 9, 2012, the NRC voted to approve the COL for the Georgia Power Company Vogtle AP1000 plant site. The Vogtle AP1000 COL is the reference COL ("R-COL") for the LNP COL. NRC issuance

of the LNP COL is dependent on the issuance of both the final NRC rule approving the AP1000 design certification amendment and the R-COL. Both of these conditions precedent to issuance of the LNP COL have now been met.

19. The LNP COL is currently on schedule for issuance by the NRC in the second quarter of 2013. The LNP COLA was filed with the NRC in July 2008 and docketed with the NRC for acceptance review in October 2008. The period for NRC Requests for Additional Information (“RAIs”) for the LNP COLA ended in May 2010, thus completing the initial NRC review of the LNP COLA. The Draft Environmental Impact Statement (“DEIS”) for the LNP was issued in August 2010 and the final EIS is expected in April 2012. PEF completed responses to all identified U.S. Army Corps of Engineers (“USACE”) information needs for the FEIS in November 2011. The Advanced Final Safety Evaluation Report (“ASER”) for the LNP was completed on September 15, 2011. Completion of the LNP ASER signified that the NRC Staff had completed the safety review required for issuance of the LNP COL. The NRC Staff subsequently met with the AP1000 ACRS Subcommittee in October 2011 and with the full ACRS committee in December 2011 with respect to the LNP ASER. This occurred ahead of the NRC milestone for the ACRS review and report by January 2012. Recently, and following the ACRS review, the NRC Staff determined that certain recommendations from the Fukushima Near Term Task Force should be implemented for new reactors prior to licensing and issued RAIs regarding these recommendations for the LNP COLA. The response to these RAIs will delay issuance of the LNP Final Safety Evaluation Report (“FSER”). Receipt of the FSER for the LNP is now expected in September 2012.

20. The final part of the NRC COLA review is a formal hearing before the NRC Atomic Safety Licensing Board (“ASLB”) for any contentions to the LNP COLA admitted by

the ASLB. During the fourth quarter of 2011, the ASLB completed its review of the pending and revised contentions for the LNP COLA and, based on additional information provided by the Company, the ASLB dismissed one of the two remaining admitted conditions in the LNP COLA. Only one contention remains for consideration in the ASLB hearings scheduled for 2012. Commencement of the ASLB contested hearing process will not be delayed by the later issuance of the FSER, however, this delay is expected to impact the NRC mandatory hearing process, but not the final issuance of the LNP COL in the second quarter 2013.

21. Technical feasibility. The LNP is technically feasible because the AP1000 nuclear reactor design can be successfully installed at the Levy site. The NRC approval of the AP1000 design and AP1000 DCD, NRC approval of the R-COL, and the development of this technology by the Southern Company and SCANA, including continuation of preconstruction site work at the Georgia Power Company AP1000 Vogtle site, demonstrate that the AP1000 nuclear reactor design is a viable nuclear technology in the United States. The viability of this nuclear reactor technology is further demonstrated by the continued construction of the Haiyang and Sanmen AP1000 nuclear reactor projects in China. The NRC review of the LNP COLA continues with the understanding that the AP1000 nuclear reactor design will be used at the Levy site. Additional RAIs to address the Fukushima Near Term Task Force recommendations have delayed but not suspended or terminated the LNP COLA review and issuance of the FSER. A delay in issuance of the LNP COL, in fact, is not expected as a result of the delayed issuance of the FSER. The LNP COL for the AP1000 nuclear reactor design at the Levy site can be obtained and this nuclear generation technology can be installed at the Levy site.

22. Economic conditions. The country and, in particular, Florida suffered the worst economic recession since the Great Depression. The depths of the recession in Florida were such that the recessionary impacts continue and they impede the pace of the recovery. The Florida economy did not show signs of improvement until late 2011, and the pace of economic improvement in Florida is anemic. The Florida unemployment rate, while declining, is still higher than the national average. Florida's housing and construction industries, which led past Florida economic recoveries, have not yet recovered from this recession. Continued difficulties in the real estate and construction industries and, consequently in other areas of the Florida economy, have slowed Florida's economic growth. A full economic recovery in Florida from the depths of the recession is not expected in the near term. The Company expects a slow recovery in Florida from the recession instead, with mixed economic results in the near term.

23. PEF continues to be mindful of the economic challenges faced by PEF's customers in determining how to proceed with the LNP. In past NCRC dockets, PEF took steps to mitigate the rate impact of the LNP costs on PEF's customers. In 2008, PEF petitioned and the Commission approved the deferral of the collection of \$198 million of approved 2009 LNP costs until 2010. In the 2009 NCRC docket, PEF proposed and the Commission approved the amortization of unrecovered site selection and preconstruction LNP costs over a period of five years. And, just this year, PEF concluded a settlement with customer representatives that holds the LNP rate the customer pays constant through 2017. The Commission approved this settlement. PEF, therefore, continues to give significant weight to the economic impact of the near term LNP project costs on PEF's customers under current economic conditions in balancing the LNP project costs to customers with the long-

term fuel savings, fuel diversity, and clean energy benefits of the LNP in determining how to implement the project.

24. Economy impact on Company. The economic conditions that continue to plague the economic recovery in Florida continue to adversely impact the Company as well. Customer growth returned somewhat in 2010 and 2011, but at levels below pre-recession customer growth. Slower than pre-recession customer growth is expected to continue in the near term. Customer energy use, however, declined significantly during and immediately following the recession and has not returned to pre-recession levels. Declining customer growth levels and declining customer energy usage has led to flat retail energy sales for the Company. As a result, the Company's retail energy sales have not fully recovered from the recession. Near-term, the Company expects more of the same, with slow customer growth, flat customer energy use, and flat retail energy sales.

25. State and federal support for new nuclear development. The Company continues to follow state and federal legislation and executive action that may potentially impact the LNP. The Florida Legislature expressly enacted Section 366.93 to encourage utility investment in nuclear electric generation by creating alternative cost recovery mechanisms for nuclear generation development costs. Since the near unanimous support for the enactment of this statute in 2006, individual legislators have introduced legislation each year to repeal the cost recovery provisions of Section 366.93. In 2010 and again in 2011, purported class action lawsuits were filed in state and then federal court challenging the constitutionality of Section 366.93. Currently, a group opposed to new nuclear development has appealed this Commission's decision in the 2011 NCRC docket to the Florida Supreme Court, apparently challenging the decision and constitutionality of Section 366.93. The

Company does not believe that any of these legal challenges are well founded, and the state and federal courts have agreed. The Florida Legislature so far has also rejected efforts to repeal Section 366.93. The continued efforts to undermine Section 366.93, however, create additional risk and uncertainty for the LNP. The development of new nuclear generation in Florida is a long-term project and continued legislative and regulatory support is necessary to successfully complete the project.

26. Likewise, continued federal support for new nuclear development is necessary for the LNP. This federal support remains unclear and, thus, uncertain. The President has continued to express support for new nuclear generation, however, that vocal support has not yet translated into affirmative action and it is unlikely that concrete, supportive legislation or executive action will occur during this election year. The current administration also still appears to support the abandonment of Yucca Mountain as the federal nuclear waste storage option despite continued opposition at the federal and state level, including the National Association of Regulatory Utility Commissioners (“NARUC”). A federal nuclear waste storage plan will advance new nuclear generation development. The lack of clear federal support for new nuclear generation in the near term adds to the risk of accelerating the short-term investment in new nuclear generation.

27. Federal and state energy and environmental policy. Likewise, there is continued uncertainty with respect to the impact of federal and state energy and environmental policy on the near-term development of the LNP. There is no federal climate control legislation or greenhouse gas (“GHG”) legislation that implements a cap-and-trade system or carbon tax on fossil fuel generation. Also, there is no federal renewable energy portfolio standard (“RPS”). All federal legislative efforts have stalled, and although a clean

energy standard act including nuclear power was recently introduced in the U.S. Senate, the enactment of this legislation or other climate control or GHG legislation in an election year is unlikely. Aggressive action by the federal Environmental Protection Agency (“EPA”) to regulate GHG emissions under the Clean Air Act in 2010 and 2011 has also stalled. The EPA implemented the Tailoring Rule in 2010, which required air permits for new, large industrial sources and other major new and modified sources to include GHG emission limits starting in 2011. The EPA further planned new source performance standards (“NSPS”) for GHG emissions standards for power plants by July 2011 that set the level of GHG emissions that new and existing power plants may emit. The EPA just recently has issued the NSPS for GHG emissions from new power plants but delayed a final rule and issuance of the NSPS for GHG emissions from existing power plants. Additionally, consolidated suits challenging the Tailoring Rule are pending in federal court, although the court refused to stay continued EPA action. Near-term, further federal legislative and regulatory GHG emission action, therefore, is not expected. Still, GHG emissions will likely be controlled in some way in the future. The recent introduction of clean energy legislation in Congress demonstrates continued interest at the federal level in such legislation and the EPA has not abandoned existing GHG emission regulations or plans to continue to implement such regulation. Long-term, some form of GHG emission regulation is expected, although it still is unclear what that regulation will look like at this time.

28. There also is no state RPS in Florida. The Florida Legislature has not yet acted on the proposed RPS rule that the Commission was directed to develop by 2009 for legislative approval. The Florida Legislature did not consider the proposed RPS rule in 2012. Additionally, this year the Florida Legislature repealed the Florida Climate Protection Act

enacted by the 2008 Florida Legislature. This Act granted the Florida Department of Environmental Protection (“DEP”) the authority to adopt rules for a cap-and-trade regulatory program to reduce GHG emissions from electric utilities to meet the GHG emission reduction targets set out in the 2007 Executive Order, subject to approval by the Florida Legislature. State efforts toward climate control or RPS legislation or regulation in Florida have certainly stalled and are not expected to resume soon.

29. Change in quantitative feasibility factors. Carbon cost estimates necessarily have changed little from the range of estimates the Company employs in its quantitative feasibility analysis. There is no reasonable basis to adjust the Company’s range of carbon cost estimates absent federal or state GHG emission legislation and regulation providing a better range or more exact cost estimate. The lack of clear legislative and regulatory direction increases the near term uncertainty regarding the commencement and impact of the cost of GHG emission legislation and regulation on the Company’s generation resources and, as a result, the LNP. Natural gas demand also declined with the recession, resulting in lower natural gas prices. Economic conditions and the advent of unconventional natural gas supplies from shale gas reserves in the United States continue to depress natural gas prices. As a result, near-term, natural gas price forecasts reflect lower natural gas prices. The quantitative LNP feasibility analysis is affected by changes in these factors. Lower near-term natural gas prices, and later carbon cost impacts necessarily favor an all natural gas generation resource plan compared to the resource plan including the LNP, although the Company’s review of the quantitative LNP feasibility analysis indicates that the LNP remains economically feasible.

C. LNP Decision.

30. As explained above, the Company evaluates the LNP each year and this evaluation includes the analyses used to determine the feasibility of completing the Levy nuclear units and a broader range of issues to determine the costs and short- and long-term benefits of the Company's plan to implement the LNP. This determination ensures that the Company aligns the LNP plan with the best interests of the Company and its customers. In making this determination this year, the Company considered if implementation of the LNP consistent with the Integrated Project Plan ("IPP") Revision 3 program of record or an extension of the current project suspension was in the best interests of the Company's customers. Based on this evaluation, as explained in more detail in the testimony and exhibits of Mr. Elnitsky and Mr. Lyash filed with this Petition, the Company decided that a longer term project suspension is in the best interests of the Company and its customers.

31. The IPP Revision 3 program of record implements the Company's decision in 2010 to proceed with the LNP on a slower pace by focusing work on obtaining the LNP COL while minimizing near term costs until after the LNP COL is obtained. That decision resulted in an amendment to the LNP EPC Agreement to continue the partial suspension, which was invoked when the NRC did not issue the Limited Work Authorization ("LWA") for the LNP, until the COL was obtained. At or before that time, an EPC amendment was necessary to end the partial suspension and implement the full notice to proceed ("FTNP") for the LNP. This decision was explained in detail in the Company's testimony and exhibits in the 2010 NCRC proceeding in Docket No. 100009-EI. The Commission determined that PEF's decision was reasonable in Order No. PSC-11-0095-FOF-EI in Docket No. 100009-EI.

32. To implement the IPP Revision 3 program of record, PEF must amend the EPC Agreement to end the partial suspension, issue the FTNP, and ramp up engineering and construction activities on the LNP next year. Based on the increased uncertainty in the LNP enterprise risks in the near term, as explained above however, the Company decided that amending the EPC Agreement to implement the IPP Revision 3 program of record is not in the best interests of PEF and its customers at this time. Economic conditions have not significantly improved, and they are not expected to significantly improve for PEF's customers in the immediate future. Their ability to support increasing, near-term LNP costs, accordingly, is limited, as evidenced by the support of PEF's customer representatives for the LNP cost recovery provisions in the recent settlement approved by the Commission. Current economic conditions do not warrant proceeding with the LNP 2011 program of record. Near term declines in natural gas prices and the resulting lower natural gas price forecasts, and the continued uncertainty surrounding the timing and substance of federal and state energy, renewable, and environmental, including GHG emission, legislation and regulation, increase the risk of significant, near term investment in the LNP. Proceeding with the LNP as planned in the IPP Revision 3 program of record is not warranted. To mitigate the increased, near term qualitative enterprise risks associated with that plan, a longer term extension of the project suspension is in the best interests of PEF and its customers.

33. Continuation of the LNP, however, is still in the customers' best interests. The LNP is feasible from a regulatory, technical, and economic perspective. The LNP COL can be obtained and is still expected in mid-2013. The LNP can be built at the Levy site. Even with lower natural gas price forecasts, the LNP is still projected to be economically beneficial to PEF's customers over the sixty-year life of the Levy nuclear units. The LNP still fulfills

the Florida legislative objectives embodied in Section 403.519(4), Florida Statutes, and the Commission's need determination for the LNP. The LNP provides fuel portfolio diversity to the State and Company, reduces reliance on fossil fuels for energy production, provides carbon free energy generation, and provides base load capacity with a low cost fuel source. The long-term LNP fuel savings and related benefits for PEF's customers exist and, therefore, justify completion of the LNP. Accordingly, PEF still intends to build the LNP, at this time however, ending the partial suspension, issuing the FTNP and ramping up of engineering and construction for the LNP next year, are not in the best interests of PEF's customers, given the increased near term enterprise risks.

34. The Company will need to amend, modify, or alter the EPC Agreement, or enter into some other contractual mechanism to implement its decision and subsequently build the LNP at a later date. However, the Company had to amend the EPC Agreement anyway to end the current partial suspension and issue the FTNP. The additional time to contract for a later in-service date for the LNP will defer near-term capital investment in the LNP, allowing additional time for the economy to improve the Company's financial condition and the financial circumstances of PEF's customers who will be required to support the LNP costs to receive the LNP benefits. Further, base load generation is needed and will continue to be needed on PEF's system, especially carbon free, base load generation. The Company's decision also allows additional time for the development and implementation of a definite federal and state energy policy. PEF still expects an energy policy that will include the regulation of GHG emissions. Some form of clean energy policy is logically inevitable. As a result, the Company continues to believe that new nuclear generation is the appropriate, long-term future base load generation for the Company and its customers.

35. The Company has developed a LNP total project cost estimate based on the current, known project costs and an expected, later in-service date for the Levy nuclear units. Applying the quantitative, cumulative present value revenue requirements (“CPVRR”) feasibility analysis to this cost estimate and the expected in-service dates, the LNP continues to be economically feasible, even with the implementation of the Company’s decision. This analysis is explained in more detail in the testimony and exhibits of Mr. Elnitsky filed with this Petition.

D. Actual/Estimated and Projected Costs to Implement the Company’s Decision.

36. PEF has incurred LNP costs during the first quarter of 2012, and has estimated the project costs necessary for the remainder of 2012 and 2013. The Company’s actual/estimated 2012 and projected 2013 LNP costs are consistent with the Company’s decision and the Company’s current settlement Agreement approved by the Commission. These costs include continued LNP COLA and environmental permit licensing and engineering costs, and other costs necessary to implement the Company’s LNP decision. These costs are reasonable, and the Commission should allow their recovery through the CCRC. The April 30, 2012 testimony and exhibits, including attached NFRs of Mr. Foster and Mr. Elnitsky support the Company’s actual/estimated and projected LNP costs for 2012 and 2013, respectively.

E. PEF 2012 NCRC Requested Relief.

37. PEF’s petition for cost recovery for the LNP reflects the Company’s management decision to obtain the LNP COL and build the LNP at a later time than previously planned. As explained in more detail above and in the testimony of PEF’s witnesses, this decision continues to make available to PEF’s customers the substantial, long-

term benefits of nuclear generation from building the LNP while mitigating the near term increased enterprise risks associated with the project. This is a reasonable exercise of the Company's management judgment, representing a reasonable and prudent decision for PEF's customers because the LNP continues to be the best long-term base load generation resource for the Company and its customers.

38. As a result, PEF requests that, pursuant to Rule 25-6.0423, F.A.C., the Commission find that PEF's costs for the LNP, incurred in 2011, were prudently incurred, and allow recovery, through the CCRC, of the preconstruction costs inclusive of the carrying cost on the unrecovered balance, carrying costs on construction costs, carrying cost on the deferred tax balance, and CCRC recoverable O&M expenditures, as provided in Section 366.93, Florida Statutes and consistent with the nuclear cost recovery rule, Rule 25-6.0423, F.A.C. Additionally, PEF requests that the Commission find that PEF's actual/estimated and projected LNP costs for 2012 and 2013, respectively, are reasonable, and allow recovery through the CCRC of the continuing costs of work for the LNP, as provided in Section 366.93, Florida Statutes and consistent with the nuclear cost recovery rule, Rule 25-6.0423, F.A.C. The revenue requirements to be collected in 2013 associated with these costs total \$102.8 million. Detailed descriptions of these expenditures, the estimated and projected costs, the contracts executed, the carrying costs, and the other information required by Rule 25-6.0423(8) F.A.C., are provided in PEF's pre-filed testimony, exhibits, and NFR schedules, which are hereby incorporated by reference.

VI. DISPUTED ISSUES OF MATERIAL FACT.

39. PEF is not aware at this time that there will be any disputed issues of material fact in this proceeding. Through its testimony and exhibits, incorporated herein by reference,


PEF has demonstrated the prudence of its prior period actual costs and the reasonableness of its 2012 and 2013 costs associated with the LNP and the CR3 Uprate project. PEF has also demonstrated through its testimony and exhibits why the recovery PEF requests is appropriate and warranted under Section 366.93, Florida Statutes, and Rule 25-6.0423, F.A.C.

VII. CONCLUSION.

WHEREFORE, for all the reasons provided in this Petition, as developed more fully in PEF's pre-filed testimony and exhibits, PEF requests that the Commission find that: (1) PEF is entitled to recover \$151,776,225 through the CCRC during the period January through December 2013, which amount reflects (a) the true-up of prior period costs for the LNP and CR3 Uprate, (b) the projected preconstruction, recoverable O&M, and carrying charges on the DTA costs and associated carrying charges for the construction of the LNP, (c) the amortization of \$88 million deferred balance for the LNP, (d) the projected carrying charges on construction costs for the construction of the LNP, and (e) the projected carrying charges on construction costs, recoverable O&M costs, and carrying charges on the DTA for the CR3 Uprate project; and (2) all of PEF's prior period LNP and CR3 Uprate project costs are prudent and all of PEF's actual/estimated 2012 costs and projected 2013 costs for the LNP and CR3 Uprate project are reasonable, as provided in Section 366.93, Florida Statutes, and consistent with the Rule 25-6.0423, F.A.C.

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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 30th day of April, 2012.



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