

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Nuclear Cost Recovery
Clause

Docket No. 130009-EI
Submitted for filing: July 5, 2013

DUKE ENERGY FLORIDA, INC.'S PREHEARING STATEMENT

Pursuant to the Order Establishing Procedure, Order No. PSC-13-0063-PCO-EI,
as revised by Order No. PSC-13-0301-PCO-EI, Duke Energy Florida, Inc. ("DEF" or the
"Company") submits its Prehearing Statement and states as follows:

A. APPEARANCES:

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B. WITNESSES AND EXHIBITS:

In identifying witnesses and exhibits herein, DEF 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>
Christopher M. Fallon	March 1, 2013 testimony: Reasonableness and prudence of DEF's actual Levy Nuclear Project ("LNP") costs for 2012 and the major variances between 2012 actual and estimated costs. Reasonableness and prudence of DEF's LNP project management, contracting, and cost oversight controls.	18, 19, 19A, 19B, 20, 21, 22, 23, 24
	May 1, 2013 testimony: Reasonableness of DEF's actual/estimated LNP costs for 2013 and projected costs for 2014. Explanation of DEF's long-term feasibility analyses for the LNP.	
Thomas G. Foster	March 1, 2013 testimony: Presents for Commission approval the actual 2012 costs associated with DEF's LNP and Crystal River Unit 3 ("CR3") Extended Power Uprate ("EPU") project ("CR3 Uprate").	19A, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31
	May 1, 2013 testimony: Presents for Commission review (i) actual/estimated costs for the LNP for January through December 2013; (ii) projected costs for the LNP for January through December 2014;	

(iii) the total estimated revenue requirements for 2014 for the purposes of setting the 2014 rates in the Capacity Cost Recovery Clause (“CCRC”); and (iv) costs associated with the CR3 Uprate project which includes actual costs to date and expected costs to close-out the project in 2013 and 2014 for the purpose of setting 2014 rates.

Garry D. Miller (adopted Jon Franke’s testimony and exhibits)	March 1, 2013 testimony: Reasonableness and prudence of DEF’s CR3 Uprate project actual costs for 2012 and the major variances between 2012 actual and estimated costs. Reasonableness and prudence of DEF’s CR3 Uprate project management, contracting, and cost oversight controls.	27, 27A, 28, 29, 30, 31
Garry D. Miller	May 1, 2013 testimony: Provides explanation that February 5, 2013 decision to retire CR3 rendered the CR3 Uprate project unnecessary and that the CR3 Uprate project was therefore cancelled. Describes the CR3 Uprate project demobilization and close out activities. Supports the reasonableness of DEF’s 2013 actual/estimated and 2014 projected costs associated with the cancellation and close-out of the EPU project.	

DEF has not identified the need for rebuttal witnesses at this time. To the extent the need to call rebuttal witnesses becomes apparent due to the nature of discovery in this proceeding, DEF expressly reserves the right to call such rebuttal witnesses or to provide supplemental testimony as necessary.

2. DIRECT TESTIMONY EXHIBITS.

<u>Exhibit Number</u>	<u>Witness</u>	<u>Description</u>
TGF-1	Thomas G. Foster	CONFIDENTIAL - Schedules T-1 through T-7B of the Nuclear Filing Requirements ("NFRs") and Appendices A through D, which reflect DEF's retail revenue requirements for the LNP from January 2012 through December 2012 (Mr. Fallon is co-sponsoring portions of schedules T-4, T-4A, T-6 and sponsoring schedules T-6A through T-7B and Appendix D).
TGF-2	Thomas G. Foster	CONFIDENTIAL - Schedules T-1 through T-7B of the NFRs and Appendices A through D, which reflect DEF's retail revenue requirements for the CR3 Uprate project from January 2012 through December 2012 (Mr. Miller is co-sponsoring portions of schedules T-4, T-4A, T-6 and sponsoring schedules T-6A through T-7B and Appendix D).
TGF-3	Thomas G. Foster	CONFIDENTIAL - Schedules AE-1 through AE-7B of the NFRs and Appendices A through E, which reflect DEF's retail revenue requirements for the LNP from January 2013 through December 2013 (Mr. Fallon is co-sponsoring portions of Schedules AE-4, AE-4A, AE-6 and sponsoring schedules AE-6A through AE-7B).
TGF-4	Thomas G. Foster	CONFIDENTIAL - Schedules P-1 through P-8 of the NFRs and Appendices A through E, which reflect DEF's projected retail revenue requirements for the LNP for January 2014 through December 2014 (Mr. Fallon is co-sponsoring portions of P-4 and P-6 and sponsoring P-6A through P-7B).
TGF-5	Thomas G. Foster	CONFIDENTIAL - Schedules TOR-1 through TOR-7 of the NFRs, which reflect the total estimated costs for the LNP (Mr. Fallon is co-sponsoring portions of TOR-4 and TOR-6 and sponsoring schedules TOR-6A and TOR-7).
TGF-6	Thomas G.	DEF's actual and expected costs associated

	Foster	with the CR3 Uprate project for 2013 and 2014, as a result of the cancellation of the project in February 2013, and pursuant to Rule 25-6.0423(6), F.A.C. (Mr. Miller will be co-sponsoring portions of Schedule 2013 Detail Lines 1 (a – f) and Schedule 2014 Detail Lines 1 (a - f)).
TGF-7	Thomas G. Foster	CONFIDENTIAL – Schedules AE-1 through AE-7B and Appendices A through E of the NFRs, which reflect the retail revenue requirements for the CR3 Uprate project from January 2013 through December 2013. (Mr. Miller is co-sponsoring portions of Schedule AE-6 and sponsoring Schedules AE-6A through AE-7B).
CMF-1	Christopher M. Fallon	Project Management and Fleet Operating Procedures applicable to the LNP revised in 2012.
CMF-2	Christopher M. Fallon	Project Management and Fleet Operating Procedures applicable to the LNP new in 2012.
CMF-3	Christopher M. Fallon	CONFIDENTIAL – Chart of DEF’s long lead equipment (“LLE”) purchase order (“PO”) disposition status.
CMF-4	Christopher M. Fallon	DEF’s May 1, 2013 cumulative present value revenue requirements (“CPVRR”) calculation for the LNP compared to the cost effectiveness analysis presented in the Need Determination proceedings for the LNP.
CMF-5	Christopher M. Fallon	Chart of the Nuclear Regulatory Commission (“NRC”) review schedule for LNP Combined Operating License Application (“COLA”).
CMF-6	Christopher M. Fallon	Florida Legislative Office of Economic and Demographic Research (“EDR”) March 2013 Florida Economic Overview.
JF-1	Garry D. Miller	Project Management and Fleet Operating Procedures applicable to the CR3 Uprate project revised in 2012.

JF-2	Garry D. Miller	Project Management and Fleet Operating Procedures applicable to the CR3 Uprate project new in 2012.
GM-1	Garry D. Miller	DEF's February 7, 2013 EPU License Amendment Request ("LAR") application withdrawal letter to the NRC.
GM-2	Garry D. Miller	DEF's notification letters to EPU project vendors with open contracts and purchase orders to suspend all EPU project work activities.
GM-3	Garry Miller	CONFIDENTIAL – DEF's EPU Project Close-Out Plan.

In addition, DEF reserves the right to utilize any exhibits introduced by another party and to introduce additional exhibits necessary for rebuttal or cross examination at the final hearing of this matter.

C. DEF'S STATEMENT OF BASIC POSITION:

Levy Nuclear Project

On August 12, 2008, the Commission issued Order No. PSC-08-0518-FOF-EI, granting DEF's petition for a determination of need for the construction of Levy Nuclear Units 1 and 2 and related facilities, including transmission facilities, the LNP. The LNP consists of two Westinghouse AP1000 nuclear-fueled generating units.

Pursuant to Section 366.93, Florida Statutes, and Rule 25-6.0423, F.A.C., DEF filed a petition on March 1, 2013, for cost recovery of its LNP costs. DEF filed NFR schedules, specifically Schedules T-1 through T-7B, in support of DEF's actual costs for 2012. In addition, DEF filed testimony regarding the LNP costs and the Company's project management policies and procedures. DEF performed work and incurred preconstruction and construction costs in support of (1) the Levy COLA to the NRC, (2) engineering activities in support of the COLA, (3) activities under DEF's LNP Engineering, Procurement, and Construction ("EPC") Agreement, and (4) strategic land acquisitions for Levy transmission needs. DEF took appropriate steps to ensure that its 2012 costs were reasonable and prudent and that all of these costs were necessary to

the LNP according to the current project schedule as discussed in the March 1, 2013 testimony of Mr. Fallon.

DEF then filed, on May 1, 2013, a petition, additional testimony, and NFR schedules AE-1 through AE-7B and P-1 through P-8 and Appendices, for years 2013 and 2014, respectively, in support of DEF's actual/estimated and projected costs, and schedules TOR-1 through TOR-7, which reflect total project estimated costs. In its May 1, 2013 testimony, DEF described the LNP costs incurred during the first quarter of 2013, and its estimated cost for the remainder of 2013 and 2014. The Company's actual/estimated 2013 and projected 2014 LNP costs as presented in its May 1 testimony are consistent with the plan presented to the Commission last year and the Company's current settlement agreement approved by the Commission. As discussed in testimony, licensing and engineering activities necessary to obtain the LNP Combined Operating License ("COL") from the NRC continue in 2013 and 2014. In addition, licensing and engineering work in 2013 and 2014 to support environmental permitting and implementation of conditions of certification ("CoC") also continues. The environmental permitting work further includes continued licensing and engineering work for the United States Army Corps of Engineers ("USACE") Section 404 permit for the LNP.

DEF developed and utilized prudent project management policies and procedures to carry out the LNP. DEF also developed and utilized prudent accounting and cost oversight controls. Pursuant to these policies, DEF developed its actual 2012 costs and 2013 and 2014 cost estimates based on the best information available to the Company at the time of filing of testimony. DEF requests that the Commission find that its project management, contracting, accounting and cost oversight controls for 2012 were prudent.

In addition, pursuant to Rule 25-6.0423(5)(c)5, F.A.C., the Company conducted the annual feasibility analyses for the LNP consistent with Commission Orders. As described in Mr. Fallon's May 1, 2013 testimony, the LNP is feasible based on the Company's feasibility analyses prepared for the 2013 Nuclear Cost Recovery Clause ("NCRC") docket.

DEF reasonably and prudently incurred capital preconstruction, construction carrying costs, and CCRC recoverable O&M expenses for the LNP for 2012. The prudence of all costs incurred in 2012 is supported by DEF's testimony and exhibits filed in this proceeding. DEF has also reasonably estimated and projected its capital preconstruction and construction LNP costs for 2013 and 2014. The reasonableness of the actual/estimated and projected 2013 and 2014 costs is supported by DEF's testimony and exhibits.

As more fully developed in DEF's pre-filed testimony and exhibits, including its NFR schedules, DEF requests that the Commission determine that (1) the LNP's actual 2012 costs were prudently incurred; (2) the LNP's 2012 project management, contracting, accounting, and cost oversight controls were prudent; (3) the LNP's

actual/estimated 2013 costs are reasonable; (4) the LNP's projected 2014 costs are reasonable; and (5) approve the feasibility analysis for completing the LNP.

CR3 Uprate Project

This Commission issued Order No. PSC-07-0119-FOF-EI, granting DEF's petition for determination of need for the expansion of the CR3 nuclear power plant through the CR3 Uprate project. On February 5, 2013, DEF announced that the Duke Energy Board of Directors decided to retire and decommission the CR3 nuclear plant. As a result of the retirement decision, the CR3 Uprate project was not needed and was cancelled. The Company prudently incurred CR3 Uprate project costs in 2012 to continue the project prior to cancellation, and has incurred and will continue to incur limited costs to close-out the CR3 Uprate project in 2013 and 2014.

2012 CR3 Uprate Costs: DEF incurred CR3 Uprate project costs in 2012 in preparation for Phase 3, the EPU phase of the CR3 Uprate project, consistent with the Company's plan in 2011 and 2012 to repair the CR3 containment building, complete the CR3 Uprate project, and return CR3 to commercial service at the end of the existing CR3 outage. The Company primarily incurred EPU costs in 2012 for (1) EPU LLE milestone payments contractually committed to prior to 2012; (2) licensing and engineering costs associated with responding to Requests for Additional Information ("RAIs") for the NRC's review of the Company's EPU License Amendment Request ("LAR"); and (3) engineering analyses for the engineering change ("EC") packages for the EPU Phase work, with project management costs associated with this work. DEF continued to take appropriate steps to minimize CR3 Uprate project spend in 2012 to ensure that only those costs necessary for completion of the CR3 Uprate project during the extended CR3 outage were incurred in 2012, consistent with the project management plan implemented by the Company in 2011 and reviewed by the Commission in the nuclear cost recovery clause docket in 2011. Accordingly, DEF's 2012 CR3 Uprate project costs are reasonable and prudent.

Pursuant to Section 366.93, Florida Statutes, and Rule 25-6.0423, F.A.C., DEF filed a petition on March 1, 2013, requesting a determination of prudence for its CR3 Uprate project 2012 costs and 2012 project management, contracting, accounting and cost oversight controls. DEF's March 1, 2013 petition also seeks recovery of the carrying costs on its 2012 construction expenditures. DEF filed the testimony and exhibits of Mr. Franke (adopted by Mr. Miller) and Mr. Foster, including NFRs schedules T-1 through T-7B and Appendices, in support of the prudence of these costs and project management, contracting, accounting, and cost oversight controls.

DEF developed and utilized prudent project management policies and procedures to carry out the CR3 Uprate project. DEF also developed and utilized prudent accounting and cost oversight controls. Pursuant to these policies, DEF submitted its actual 2012 costs and developed and submitted its actual/estimated 2013 costs and projected 2014 costs. No witness filed testimony in this proceeding disputing

the prudence of DEF's CR3 Uprate project 2012 costs or projected management, contracting, accounting, and cost oversight controls for 2012.

DEF's pre-filed testimony and supporting exhibits and NFRs in this docket demonstrate the prudence of its costs. DEF requests that the Commission approve the prudence of the CR3 Uprate project's 2012 costs, and authorize DEF to recover the revenue requirements associated with those costs for the time period January 2012 through December 2012, adjusted for the contribution to construction expenditures made by the CR3 joint owners.

CR3 Uprate Close-Out: On May 1, 2013, DEF filed a petition, additional testimony, and NFR schedules AE-1 through AE-7B in support of DEF's actual/estimated costs for 2013 and projected costs for 2014. NFR Schedules "P" and "TOR" filed by the Company with the March 1, 2013 petition are no longer necessary because the CR3 Uprate project has been canceled. In their place, the Company filed schedules "2013 and 2014 Detail – Calculation of Revenue Requirements," which reflect the estimated costs related to closing-out the CR3 Uprate project. No Intervenor or Staff witness disputed the reasonableness of costs incurred by DEF on the CR3 Uprate to date in 2013, nor the costs for project close-out projected for the remainder of 2013 and 2014.

Due to the retirement of the CR3 plant and the cancellation of the CR3 Uprate project it was not necessary to complete the feasibility analyses under Rule 25-6.0423(5)(c)5, F.A.C.

As more fully developed in DEF's pre-filed testimony and exhibits, including its NFR schedules, DEF requests that the Commission determine that (1) the CR3 Uprate project's actual 2012 costs were prudently incurred; (2) the CR3 Uprate project's 2012 project management, contracting, accounting, and cost oversight controls were prudent; (3) the CR3 Uprate project's actual/estimated 2013 costs are reasonable; and (4) the CR3 Uprate project's projected 2014 costs are reasonable.

For all these reasons, DEF respectfully requests that the Commission grant cost recovery for DEF's CR3 Uprate and Levy Nuclear Projects.

D. DEF'S STATEMENT OF ISSUES AND POSITIONS:

1. LEGAL ISSUES.

Issue 1: Does recently enacted Senate Bill 1472, effective July 1, 2013, change the AFUDC rate that should be used for nuclear cost recovery clause computations in this year's pending case?

DEF Position:

No. DEF agrees with and adopts the position of Florida Power & Light (“FPL”) on this issue.

Issue 2: Does recently enacted Senate Bill 1472, effective July 1, 2013, preclude a utility from continuing preconstruction work not related to obtaining a combined operating license from the Nuclear Regulatory Commission or certification, that was under contract or commenced prior to July 1, 2013?

DEF Position:

No. DEF believes the Florida Legislature did not intend to retroactively apply Senate Bill 1472 to preconstruction work commenced prior to July 1, 2013 but continuing after July 1, 2013. DEF understands, however, that the application of Senate Bill 1472 to preconstruction work prior to July 1, 2013 is unclear on the face of the legislation and ultimately the determination whether Senate Bill 1472 precludes a utility from continuing preconstruction work commenced prior to July 1, 2013 but continuing after July 1, 2013 must be resolved.

Issue 3: Does recently enacted Senate Bill 1472, effective July 1, 2013, preclude a utility from recovering costs associated with preconstruction work not related to obtaining a combined operating license from the Nuclear Regulatory Commission or certification, that was under contract or commenced prior to July 1, 2013?

DEF Position:

No. DEF believes a utility is entitled to cost recovery for all reasonable and prudent costs for preconstruction work commenced prior to July 1, 2013 but continuing after July 1, 2013. DEF believes the Florida Legislature did not intend to retroactively apply Senate Bill 1472 to preconstruction work commenced prior to July 1, 2013 but continuing after July 1, 2013. DEF understands, however, that the application of Senate Bill 1472 to preconstruction work prior to July 1, 2013 is unclear on the face of the legislation and ultimately the determination whether Senate Bill 1472 precludes a utility from continuing preconstruction work commenced prior to July 1, 2013 but continuing after July 1, 2013 must be resolved.

2. FACT ISSUES.

DEF takes no position on FPL specific issues numbers 4 through 17.

Levy Nuclear Project

Issue 18: Do DEF's activities since January 2012 related to the proposed Levy Units 1 & 2 qualify as "siting, design, licensing and construction" of a nuclear power plant as contemplated by Section 366.93, F.S.?

DEF Position:

Yes, they do. Similar issues have been included for consideration by this Commission in the last three prior nuclear cost recovery clause ("NCRC") Dockets No. 100009-EI, No. 110009-EI, and No. 120009-EI. In each of these dockets the Commission found that DEF's activities qualified under the statute. See Order No. PSC-11-0547-FOF-EI, Order No. PSC-11-0095-FOF-EI, and Order No. PSC-12-0650-FOF-EI. DEF's LNP activities since January 2012 are similar to the Company's prior LNP activities and they likewise qualify as the "siting, design, licensing, and construction" of a nuclear power plant under Section 366.93, Florida Statutes, as determined by the Commission and confirmed by the Florida Supreme Court.

The Commission determined in Order No. PSC-0095-FOF-EI that a utility is not required to engage in the siting, design, licensing and construction of nuclear power plant activities simultaneously in order to meet the statutory requirements under Section 366.93, Florida Statutes. See Order No. PSC-11-0095-FOF-EI, p. 9. Rather, the utility must demonstrate that it is incurring costs for preconstruction or construction, as defined in the statute and rule, related to the statutorily defined activities of siting, design, licensing, or construction of a nuclear power plant. If the utility demonstrates that it incurred preconstruction or construction costs for siting, design, licensing, or construction of a nuclear power plant then, the utility demonstrates, "through its actions, an intent to build the nuclear power plant for which it seeks advance recovery of costs ...," and the utility satisfies Section 366.93, Florida Statutes. See Order No. PSC-11-0547-FOF-EI, p. 88; see also Section 366.93(1)(a), (2), Fla. Stats. ; *Southern Alliance for Clean Energy v. Graham*, __ So. 3d __, 20013, WL 1830919, *9 (Fla. May 2, 2013).

As described in the March 1, 2013 and May 1, 2013 direct testimony of Mr. Fallon, costs incurred by DEF in 2012 and projected for 2013

and 2014 for the LNP are related to the siting, licensing, and/or design of the Levy nuclear plants. LNP costs were incurred and are expected to be incurred in connection with licensing application activities to support the Levy COLA to the NRC, engineering activities in support of the COLA, and activities under DEF's LNP EPC contract with the Consortium. In addition, costs were incurred for Levy transmission strategic land acquisitions. Thus, based on the precedent described above DEF's activities qualify pursuant to the statute. (Fallon).

Issue 19: Should the Commission approve what DEF has submitted as its 2013 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?

DEF Position:

Yes. With the May 1, 2013 testimony and exhibits of Mr. Fallon, DEF submitted a detailed analysis setting forth the long term feasibility of completing the LNP, consistent with the requirements of Rule 25-6.0423, F.A.C. and the analysis this Commission originally approved in Docket No. 090009-EI.

In its feasibility analyses for the LNP for its May 1, 2013 testimony, the Company employed a qualitative analysis of the technical and regulatory capability of completing the plants and the risks external to the project, and a quantitative analysis of the costs and benefits of completing the Levy nuclear power plants. These feasibility analyses employed for the 2013 NCRC docket demonstrate that the LNP is feasible from a regulatory, technical, and economic perspective.

If the Commission finds that the Company's LNP feasibility analyses for the 2013 NCRC docket do not demonstrate that the LNP is feasible on substantive grounds, the Commission's determination would preclude the Company from completing the construction of the LNP and the Commission should allow DEF cost recovery of its prudent 2012 costs, reasonable 2013 costs, and reasonable project exit costs pursuant to Section 366.93(6). (Fallon).

Issue 19A: What is the current total estimated all-inclusive cost (including AFUDC and sunk costs) of the proposed Levy Units 1 & 2 nuclear project?

DEF Position:

Based on its May 1, 2013 filing, the current total estimated cost for the Levy Units 1 & 2 nuclear project, including AFUDC and sunk costs, is approximately \$24.2 billion. (Fallon, Foster).

Issue 19B: What is the current estimated planned commercial operation date of the planned Levy Units 1 & 2 nuclear facility?

DEF Position:

Based on its May 1, 2013 filing, the Levy Units 1 & 2 nuclear plants are currently estimated for commercial operation in 2024 for Unit 1 and eighteen months later in 2025 for Unit 2. (Fallon).

Issue 20: What are the jurisdictional amounts for Levy Units 1 & 2 project activities that are related to obtaining a combined license from the Nuclear Regulatory Commission or certification during 2013 and 2014?

DEF Position:

The jurisdictional amounts for Levy Units 1 & 2 project activities that are related to obtaining a combined license from the Nuclear Regulatory Commission during 2013 and 2014 are approximately \$6,950,826 for 2013 and approximately \$4,644,250 for 2014. (Fallon).

Issue 21: Should the Commission find that, for 2012, DEF's project management, contracting, accounting and cost oversight controls were reasonable and prudent for the Levy Units 1 & 2 project? If not, what action, if any, should the Commission take?

DEF Position:

Yes, for the year 2012, DEF's project management, contracting, accounting and cost oversight controls were reasonable and prudent for the LNP as discussed in Mr. Fallon's March 1, 2013 and May 1, 2013 direct testimony and in Mr. Foster's March 1, 2013 direct testimony. These procedures are designed to ensure timely and cost-effective completion of the project. These project management and cost oversight controls include regular risk assessment,

evaluation, and management. These policies and procedures reflect the collective experience and knowledge of the Company and Duke Energy, and they have been and will continue to be vetted, enhanced, and revised to reflect industry leading best project management and cost oversight policies, practices, and procedures. The Company has appropriate, reasonable project accounting controls, project monitoring procedures, disbursement services controls, and regulatory accounting controls. The Company's 2012 LNP management and cost oversight controls, policies, and procedures are substantially the same as the policies and procedures reviewed and previously determined to be prudent by the Commission. (Fallon, Foster).

Issue 22: What jurisdictional amounts should the Commission approve as DEF's final 2012 prudently incurred costs and final true-up amounts for the Levy Units 1 & 2 project?

DEF Position:

Based on DEF's March 1, 2013 filing:

Capital Costs (Jurisdictional) \$25,335,581
O&M Costs (Jurisdictional) \$988,205
Carrying Costs \$48,424,466

The under-recovery of \$3,644,953, should be included in setting the allowed 2014 NCRC recovery.

The 2012 variance is the sum of under-projection preconstruction costs of \$3,707,795 plus an under-projection of O&M expenses of \$60,747 plus an over-projection of carrying costs of \$123,588. (Foster, Fallon).

Issue 23: What jurisdictional amounts should the Commission approve as reasonably estimated 2013 costs and estimated true-up amounts for DEF's Levy Units 1 & 2 project?

DEF Position:

Based on DEF's May 1, 2013 filing:

Capital Costs (Jurisdictional) \$85,657,847
O&M Costs (Jurisdictional) \$523,974
Carrying Costs \$21,833,893.

The over-recovery of \$4,440,118, should be included in setting the allowed 2014 NCRC recovery.

The 2013 variance is the sum of an over-projection of Preconstruction costs of \$3,683,836, plus an over-projection of O&M expenses of \$501,126 plus an over-projection of carrying charges of \$255,156. (Foster, Fallon).

Issue 24: What jurisdictional amounts should the Commission approve as reasonably projected 2014 costs for DEF's Levy Units 1 & 2 project?

DEF Position:

Based on DEF's May 1, 2013 filing:

Capital Costs (Jurisdictional) \$32,717,834
O&M Costs (Jurisdictional) \$480,817
Carrying Costs \$18,172,031

For the LNP, an amount necessary to achieve the rates included in Exhibit 5 (\$3.45/1,000kWh on the residential bill) of the Settlement Agreement approved in Order No. PSC-12-104-FOF-EI page 147 should be included in establishing DEF's 2014 CCRC. (Foster, Fallon).

Issue 25: What is the appropriate regulatory treatment of any amount equal to the difference between the collections pursuant to Order No. PSC-12-0104-FOF-EI and the sum of recoverable amounts identified in the prior issues?

DEF Position:

The appropriate regulatory treatment of the difference between the collections pursuant to Order No. PSC-12-0104-FOF-EI and the sum of the recoverable LNP amounts is the creation of the regulatory liability pending the true-up provided for in the Settlement Agreement approved by the Commission in Order No. PSC-12-0104-FOF-EI as amended in Order No. PSC-12-0104A-FOF-EI as explained in the testimony and exhibits of Mr. Foster in this proceeding. (Foster).

CR3 Uprate Project

Issue 26: What action, if any, should the Commission take as a result of the DEF decision to retire the CR3 unit with respect to the Balance of Plant Uprate of CR3 associated with the December 7, 2009 base rate tariff filing by DEF?

DEF Position:

This issue is to be decided in Docket No. 100437-EI, so no Commission action is necessary, at this time, or in this year's phase of this docket as to this issue. With respect to the dollars being proposed for recovery in this docket, fall out cost impacts on those dollars, if any, from the resolution of this issue in Docket No. 100437-EI will be treated accordingly in this docket in a subsequent year. (Foster).

Issue 27: Should the Commission find that, for 2012, DEF's project management, contracting, accounting and cost oversight controls were reasonable and prudent for the Crystal River Unit 3 Uprate project? If not, what action, if any, should the Commission take?

DEF Position:

Yes, for the year 2012, DEF's project management, contracting, accounting and cost oversight controls were reasonable and prudent for the CR3 Uprate as discussed in Mr. Miller's March 1, 2013 and May 1, 2013 direct testimony and in Mr. Foster's March 1, 2013 direct testimony. These procedures are designed to ensure timely and cost-effective completion of the project. These project management and cost oversight controls include regular risk assessment, evaluation, and management. These policies, procedures, and controls are continually reviewed, and where necessary, revised and enhanced, all in line with industry best practices. The Company has appropriate, reasonable project accounting controls, project monitoring procedures, disbursement services controls, and regulatory accounting controls. The Company's 2012 CR3 Uprate management and cost oversight controls, policies, and procedures are substantially the same as the policies and procedures reviewed and previously determined to be prudent by the Commission. (Miller, Foster).

Issue 27A: Has Duke undertaken reasonable and prudent measures to mitigate the CR3 uprate asset (e.g., through salvage, sale, cost reduction, etc.) following its decision to retire CR3? If not, what action, if any, should the Commission take?

DEF Position:

Yes. As discussed in the May 1, 2013 testimony and exhibits of Mr. Miller, DEF has undertaken reasonable and prudent measures to mitigate CR3 Uprate costs followings its February 5, 2013 decision to retire CR3. In 2013 to date these actions included immediately cancelling the EPU project and notifying vendors to suspend work on all contracts and purchase orders; immediately notifying the NRC to stop LAR review work; significant reductions in staff; and creation of an EPU Project Close-Out Plan to manage the project close-out. (Miller).

Issue 28: What jurisdictional amounts should the Commission approve as DEF's 2012 prudently incurred costs and final true-up amounts for the Crystal River Unit 3 Uprate project?

DEF Position:

**Capital Costs (Jurisdictional, net of joint owners) \$34,217,595
O&M Costs (Jurisdictional, net or joint owners) \$432,585
Carrying Costs \$21,205,814 and Other Adjustments credit of \$3,242,310.**

The under-recovery of \$2,596,849 should be included in setting the allowed 2014 NCRC recovery.

The 2012 variance is the sum of an O&M under-projection of \$432,455, and an under-projection of carrying charges of \$2,164,394. (Foster, Miller).

Issue 29: What jurisdictional amounts should the Commission approve as reasonably estimated 2013 costs and estimated true-up amounts for DEF's Crystal River Unit 3 Uprate project?

DEF Position:

**Capital Costs (Jurisdictional, net of joint owners) \$11,812,025
O&M Costs (Jurisdictional, net of joint owners) \$453,738
Carrying Costs \$27,111,962 and Other Adjustments credit of \$6,946.**

The over-recovery of \$2,790,653 should be included in setting the allowed 2014 NCRC recovery.

The 2013 variance is the sum of an O&M under-projection of \$453,565, over-projection of carrying charges of \$3,240,860 and an over-projection of \$3,359 of Other Adjustments. (Foster, Miller).

Issue 30: What jurisdictional amounts should the Commission approve as reasonably projected 2014 costs for DEF's Crystal River Unit 3 Uprate project?

DEF Position:

Capital Costs (Jurisdictional, net of joint owners) \$208,008

O&M Costs (Jurisdictional, net of joint owners) \$396,900

Carrying Costs \$24,178,932 and a base revenue requirement credit of \$3,699 (Foster, Miller)

Issue 31: What is the total jurisdictional amount to be included in establishing DEF's 2014 Capacity Cost Recovery Clause factor?

DEF Position:

The total jurisdictional amount to be included in establishing DEF's 2014 Capacity Cost Recovery Clause factor should be \$174,645,228 (before revenue tax multiplier). This consists of \$106,054,078 for the LNP and \$68,591,150 for the CR3 Uprate project.

For the LNP, an amount necessary to achieve the rates included in Exhibit 5 (\$3.45/1,000kWh on the residential bill) of the Settlement Agreement approved in Order No. PSC-12-104-FOF-EI page 147 should be included in establishing DEF's 2014 CCRC. (Foster, Fallon).

E. STIPULATED ISSUES:

None at this time.

F. PENDING MOTIONS OR OTHER MATTERS:

None at this time.

G. DEF'S REQUESTS FOR CONFIDENTIAL CLASSIFICATION:

Document No.	Request	Date Filed
01091-13	First Request for Confidential Classification regarding Portions of Testimonies and Exhibits Filed as Part of the Company's March 1, 2013 True-Up Filing	3/01/13
02196-13	Second Request for Confidential Classification re Portions of Information provided in amended response to Staff's 1 st Set of Interrogatories	4/26/13
02636-13	Third Request for Confidential Classification re the responses to Citizens' 1 st Request for Production of Documents	5/14/13
02696-13	Fourth Request for Confidential Classification re: Audit Control No. 13-010-2-2 work-papers	5/16/13
02826-13	Fifth Request for Confidential Classification re: Portions of testimonies and exhibits filed as part of the 5/1/13 petition for approval of costs to be recovered	5/22/13
03392-13	Sixth Request for Confidential Classification re: Portions of the Review of the Project Management Internal Controls for Nuclear Plant Uprate and Construction Projects Audit Report No. PA-13-01-001	6/18/13
03701-13	07/01/13 Fourth Notice of Intent to Request Confidential Classification re: portions of information provided in response to SACE's First Set of Interrogatories, specifically No. 6	Due: 7/22/13
03703-13	07/01/13 Fifth Notice of Intent to Request Confidential Classification re: portions of information provided in response to Staff's Fifth Set of Interrogatories No. 24, specifically attachments bearing Bates No. 13NC-STAFFROG5-24-000001 through 13NC-STAFFROG5-24-000039	Due: 7/22/13

H. REQUIREMENTS OF PREHEARING ORDER THAT CANNOT BE MET:

There are no requirements of the prehearing order that cannot be met at this time. Because discovery is continuing in this matter, DEF reserves 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. DEF further reserves the right to amend any of its positions to the issues to respond to any such ongoing developments in the case or to respond to the Prehearing Officer's or Commission's rulings on any disputed issues or motions.

I. OBJECTIONS TO WITNESSES' QUALIFICATIONS:

None.

Respectfully submitted on this 5th day of July, 2013,

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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 5th day of July, 2013.



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