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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Nuclear Power Plant Cost
Recovery Clause

Docket No. 090009-EI
Submitted for Filing: August 10, 2009

**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:

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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, 2009 testimony: Reasonableness and prudence of PEF's CR3 Uprate project and Levy Nuclear Project ("LNP") actual costs for 2008.	19, 22, 25, 28, 29
Geoff Foster	May 1, 2009 testimony: Reasonableness of PEF's actual/estimated 2009 and 2010 projected costs for the CR3 Uprate project and LNP.	1-3, 26, 27, 30, 31, 32, 32A-B
Jon Franke	March 1, 2009 Testimony of Steve Huntington: Reasonableness and prudence of PEF's actual costs for 2008 for the CR3 Uprate project. May 1, 2009 Testimony: Reasonableness of PEF's actual/estimated costs for 2009 and projected costs for 2010 for the CR3 Uprate project; long-term feasibility analysis of completing the CR3 Uprate project.	21, 22, 24, 25-27
Gary Doughty	March 2, 2009 Testimony: Reasonableness and prudence of project management and project control systems.	21, 21A
Gary Furman	March 2, 2009 testimony: Reasonableness and prudence of PEF's actual LNP transmission costs for 2008. May 1, 2009 testimony: Reasonableness of PEF's transmission-related LNP actual/estimated 2009 costs and projected 2010 costs.	19 -21, 22, 28-31

Garry Miller	March 2, 2009 testimony: Reasonableness and prudence of PEF's actual LNP costs for 2008.	19, 20, 21, 21A, 22, 23, 23A, 28-31
	May 1, 2009 testimony: Reasonableness of PEF's LNP actual/estimated 2009 costs and projected 2010 costs; long-term feasibility analysis of completing the LNP.	

Rebuttal Testimony.

<u>Witness</u>	<u>Subject matter</u>	<u>Issues</u>
Jon Franke	Rebuttal of intervener testimony regarding CR3 Uprate and status of License Amendment Request with NRC.	24, 26, 27
Gary Furman	Reasonableness and prudence of 2007 transmission LNP costs.	28
Will Garrett	Reasonableness and prudence of 2006 and 2007 LNP costs; rebuttal of Jeffrey Small's 2008 audit report with respect to the allocation of land costs for the LNP.	28
Garry Miller	Rebuttal of intervener testimony regarding signing of EPC contract and feasibility of LNP; reasonableness and prudence of 2006, 2007, and 2008 LNP costs; reasonableness of 2009 actual/estimated and 2010 projected costs.	21A, 23, 23A, 28
Hugh L. Thompson, Jr.	Rebuttal of intervener testimony regarding NRC licensing process, including Limited Work Authorization ("LWA"), for the LNP and the License Amendment Request for the CR3 Uprate project.	21A, 23, 24
Gary Doughty	Rebuttal of intervener testimony regarding PEF's risk management process specific to the LWA request and the prudence of execution of EPC contract.	21A
Jeffrey Lyash	Rebuttal of intervener testimony regarding prudence of executing the EPC contract and feasibility of Levy project.	21A, 23

2. DIRECT TESTIMONY EXHIBITS.

<u>Exhibit Number</u>	<u>Witness</u>	<u>Description</u>
WG-1	Will Garrett	Schedules T-1 through T-10, which reflect PEF's retail revenue requirements for the LNP from January 2008 through December 2008 (Gary Furman and Garry Miller sponsoring portions of T-6 through T-8B)
WG-2	Will Garrett	Schedules T-1 through T-10, reflecting PEF's retail revenue requirements for the CR3 Uprate for period January 2008 through December 2008 (Jon Franke sponsoring T-6 through T-8B)
TGF-1	Geoff Foster	Schedules AE-1 through AE-10, which reflect PEF's retail revenue requirements for the LNP from January 2009 through December 2009 (Gary Furman and Garry Miller sponsoring portions of AE-6 through AE-8A)
TGF-2	Geoff Foster	Schedules P-1 through P-10 and Appendix A and B, which reflect PEF's projected retail revenue requirements for the LNP for January 2010 through December 2010 (Garry Miller and Gary Furman P-6 through P-9)
TGF-3	Geoff Foster	Schedule Appendix P-1 through P-10, which reflect PEF's retail revenue requirements for the LNP for January through December 2010 under PEF's alternate recovery proposal
TGF-4	Geoff Foster	Schedules AE-1 through AE-10 and Appendix A, which reflect PEF's retail revenue requirements for the CR3 Uprate Filing from January 2009 through December 2009 ** (Jon Franke sponsoring portions of AE-6 through AE-8A)
TGF-5	Geoff Foster	Schedules P-1 through P-10 and Appendix A and B, which reflect PEF's projected retail review requirements for the Crystal River Unit 3 (CR3) Uprate filing for January 2010 through December 2010 (Jon Franke sponsoring portions of P-6 through P-8A and portions of Appendix B)

TGF-6	Geoff Foster	Schedules TOR-1 through TOR-7, which reflect the actual and projected costs of CR3 Uprate project from January 2006 through December 2012 (Jon Franke sponsoring portions of TOR-6 through TOR-7)
TGF-7	Geoff Foster	Schedule Appendix Summary of projected 2010 revenue requirements and rate impact estimates
GRD-1	Gary Doughty	Janus Management technical consulting firm services
GRD-2	Gary Doughty	Resume of Gary R. Doughty
GRD-3	Gary Doughty	Testimony experience in management prudence reviews
GRD-4	Gary Doughty	Outage and major capital project experience
GRD-5	Gary Doughty	Key LNP documents reviewed and approved by the Senior Management Committee
GRD-6	Gary Doughty	Example contractor oversight reports to management

3. REBUTTAL TESTIMONY EXHIBITS.

<u>Exhibit Number</u>	<u>Witness</u>	<u>Description</u>
JF-1	Jon Franke	Excerpts of the Jacobs Deposition in this proceeding.
GF-1	Gary Furman	Testimony of Dale Oliver in Support of Site Selection Costs, filed in Docket 080009.
WG-3	Will Garrett	Will Garrett's April 22, 2008 Direct Testimony filed Docket 080009.
WG-4	Will Garrett	Testimony of Lori Cross in Support of Site Selection Costs, filed in Docket 080009.
WG-5	Will Garrett	Rebuttal Testimony of Will Garrett, filed in Docket 080009.
GM-3	Garry Miller	Testimony of Daniel Roderick in support of actual site selection costs incurred for LNP, filed in Docket 080009.

GM-4	Garry Miller	Testimony of Garry Miller in support of actual costs incurred in 2006 and 2007 for the LNP, filed in Docket 080009.
GM-5	Garry Miller	Excerpts of the Jacobs Deposition, witness for the Office of Public Counsel (“OPC”), taken July 27, 2009 in this proceeding.
GM-6	Garry Miller	PEF Response to OPC Third Set of Interrogatories to PEF, No. 36.
GM-7	Garry Miller	PEF Responses to Staff Fourth Set of Interrogatories to PEF, No. 39 and PCS Phosphate’s First Set of Interrogatories to PEF, No. 6.
GM-8	Garry Miller	October 6, 2008 NRC letter from Brian Anderson, Lead Project Manager, to Mr. James Scarola, Senior Vice President and Chief Nuclear Officer, Progress Energy, Inc.
GM-9	Garry Miller	Excerpts of NRC Official Transcript of Proceedings, Levy Nuclear Plant Combined License Application Public Meeting: Afternoon Session, Docket No. 52-029 and 52-030, December 4, 2008 at Crystal River, Florida.
GM-10	Garry Miller	Progress Energy correspondence with the NRC regarding the NRC resolution of the CH2MHILL quality assurance.
GM-11	Garry Miller	June 2009 Consortium Monthly Project Status Report.
GM-12	Garry Miller	PEF Response to PCS Phosphate’s First Set of Interrogatories to PEF, No. 10.
HT-1	Hugh Thompson	Hugh Thompson Curriculum Vitae.
HT-2	Hugh Thompson	December 3, 2008 Meeting Slides, “Levy Nuclear Plant Limited Work Authorization Scope” also found at www.nrc.gov , NRC ADAMS #ML090760470.
HT-3	Hugh Thompson	Excerpt of the NRC December 4, 2008 public scoping meeting transcript.

HT-4	Hugh Thompson	Table that lists 127 power uprates that have been approved by the NRC.
JL-1	Jeffrey Lyash	Excerpts of the Jacobs Deposition, witness for the Office of Public Counsel (“OPC”), taken July 27, 2009 in this proceeding.
JL-2	Jeffrey Lyash	PEF’s response to Commission Staff’s Second Set of Interrogatories requesting an updated cumulative life-cycle net present worth revenue requirements calculation for the LNP compared to the cumulative life-cycle net present worth revenue requirements cost-effectiveness analysis presented in the Need Determination Proceeding for Levy Units 1 and 2.

D. PEF’S STATEMENT OF BASIC POSITION:

CR3 Uprate Project.

This Commission granted the need determination for the Crystal River 3 (“CR3”) Uprate on February 8, 2007. The CR3 Uprate will provide an additional 180 MW of beneficial nuclear generation to PEF’s customers and provide fuel savings that offset the cost of the project. Pursuant to Section 366.93, Florida Statutes, and Rule 25-6.0423, F.A.C., PEF filed a petition on March 2, 2009, for cost recovery of its CR3 Uprate project costs. PEF also filed certain Nuclear Filing Requirement (“NFR”) schedules, specifically Schedules T-1 through T-10, in support of PEF’s actual costs for 2008. In addition, on March 2, PEF filed testimony regarding the CR3 Uprate costs and the Company’s project management policies and procedures. PEF then filed, on May 1, 2009, another petition, additional testimony, and NFR schedules AE-1 through AE-10 and P-1 through P-10, for years 2009 and 2010, respectively, in support of PEF’s actual/estimated and projected 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 2008, PEF issued a Request for Proposal (“RFP”) to solicit bids from various vendors. 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 and cost control procedures for 2008 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 2008 costs

and developed and submitted its actual/estimated 2009 costs and projected 2010 costs. PEF therefore also requests that the Commission find that its accounting and cost oversight controls for 2008 were reasonable and prudent.

PEF reasonably and prudently incurred construction costs associated with the CR3 Uprate in 2008 in the amount of \$65,137,303. PEF requests that the Commission approve the prudence of these costs. No party has challenged any specific 2008 cost incurred for the CR3 Uprate. The only question raised with respect to the CR3 Uprate project relates to incurring costs before either receiving NRC approval of the Company's License Amendment Request ("LAR") or obtaining reasonable assurance from the NRC that it will approve the LAR. However, the Company has in fact received reasonable assurance from the NRC with respect to its LAR. PEF has been meeting with the NRC to work out engineering issues with respect to the LAR submittal. The Company has also been engaging in the detailed and necessary engineering analysis required to support the LAR submittal. PEF's approach to the CR3 Uprate project is consistent with industry standards and prudent to gain the most benefits for PEF's customers. PEF requests that the Commission find its 2008 CR3 Uprate costs are prudent.

PEF has also reasonably estimated and projected its CR3 Uprate construction costs for 2009 and 2010, in the amount of \$126,126,306 and \$49,872,156, 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 scheduled refueling outages in 2009 and 2011. PEF requests that the Commission find its 2009 actual/estimated and 2010 projected CR3 Uprate costs are prudent.

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 updated Integrated Project Plan ("IPP") for the CR3 Uprate, the costs for the project are still bounded by the project's original Business Analysis Package ("BAP"). None of the identified project risks, including regulatory approval risks, are expected to affect the feasibility of completing the project. PEF requests that the Commission approve PEF's 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 2, 2009, for cost recovery of its LNP costs. PEF also filed certain Nuclear Filing Requirement ("NFR") schedules, specifically Schedules T-1 through T-10, in support of PEF's actual costs for 2008. In addition, on March 2, PEF filed testimony regarding the LNP costs and the Company's project management policies and procedures. PEF then filed, on May 1, 2009, another petition, additional testimony, and NFR schedules AE-1 through AE-10 and P-1 through P-10, for years 2009 and 2010, respectively, in support of PEF's actual/estimated and projected costs.

PEF reasonably and prudently incurred actual costs for the LNP in the amount of \$2,849,210 for 2006, \$84,557,569 for 2007, and \$155,306,978 for 2008. In Docket 080009, the parties stipulated to recovery of the 2006 and 2007 LNP costs as reasonable and deferred the prudence determination of those costs to this proceeding, Docket 090009. The prudence of all costs incurred from 2006 through 2008 have been supported by PEF's testimony and exhibits filed in this proceeding. Accordingly, PEF requests that its actual 2006 through 2008 costs be approved as prudent and be included in the capacity clause factor.

PEF has also reasonably estimated and projected its LNP costs for 2009 and 2010, in the amount of \$316,501,103 and \$188,549,039, respectively. These 2009 and 2010 costs reflect a primary focus on obtaining key state and federal permits, such as the Site Certification Application ("SCA") and the Combined Operating License ("COL"). Based on the NRC's unexpected and unanticipated treatment of certain work prior to the issuance of the LNP COL, PEF now expects a schedule shift in the commercial operation dates of the LNP. Specifically, PEF's initial schedule anticipated the ability to perform certain site work prior to COL receipt under a Limited Work Authorization ("LWA") from the NRC. The NRC Staff, however, notified PEF on January 23, 2009, that much of that schedule critical work will have to be deferred until after COL issuance. PEF is currently working with its vendors – Westinghouse and Shaw, Stone, and Webster (the "Consortium") to assess the impact of the NRC Staff's position, but it expects a schedule shift of at least 20 months. The Company is already working with the Consortium to amend the Engineering, Procurement, and Construction ("EPC") contract to address this development.

The Company executed the EPC contract with the Consortium on December 31, 2008. Execution of the EPC contract at the end of 2008 was reasonable and prudent for several reasons. First, execution of the EPC contract in December 2008 preserved benefits that were obtained for PEF and its customers after about two years of hard-fought negotiations with the Consortium. The details of these benefits, which are confidential, are outlined in Mr. Miller's and Mr. Lyash's rebuttal testimony. In addition, the EPC contract execution provided an orderly framework for the adjustment to the schedule and the amendment of the EPC contract for such risks as the NRC decision regarding the LWA that occurred. Finally, and contrary to testimony by intervener witnesses, PEF did not know and could not have known in December 2008 that the NRC would refuse to review the LWA in a timeframe to allow PEF to perform site work before COL issuance. As late as December 4, 2008, the NRC Project Manager for the Levy COL indicated in a public meeting that he expected an LWA review to take 2 years, which is less than the approximately 30 months PEF allowed in its schedule for the NRC review. It was therefore reasonable and prudent for PEF to execute the EPC agreement with the Consortium in December 2008.

PEF developed its 2009 and 2010 cost estimates based on the best information available to the Company. The estimates take into account the schedule shift and reflect the Company's decision to continue the project at a slower pace than originally anticipated. PEF therefore requests that its actual/estimated and projected costs for the LNP be approved as reasonable and included in the Company's capacity clause factor.

In total, in accordance with Section 366.093 and Rule 25-6.0423, PEF is entitled to recover \$446,316,907 through the Capacity Cost Recovery Clause ("CCRC") during the period January through December 2010 for both the LNP and the CR3 Uprate. Although PEF is entitled to recover this full amount, due to current economic conditions, PEF has proposed an alternative that will reduce this total amount to \$236.4 million. This alternative will allow PEF to: (1) amortize the unrecovered balance at year end 2009, which is estimated to be over half the amount or \$298.7 million, over a five year period, and (2) provide for the recovery of 2010 projected costs during 2010 subject to the existing true-up provisions of the rule. The unrecovered balance at year end will be amortized over a five year period (from 2010 to 2014) by removing one-fifth of the balance each year from the CWIP balance. The Company would earn a return on these CWIP balances until they are recovered.

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. When contracting for services, PEF generally issued a Request for Proposal ("RFP") to solicit bids from various vendors. 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 therefore requests that the Commission find that its project management and cost control procedures for 2006-2008 were reasonable and prudent.

Pursuant to Rule 25-6.0423(5)(c)5, PEF has also demonstrated the long-term feasibility of completing the LNP based on facts, circumstances, and information known to date. The AP 1000 technology remains a viable technology. The Company has met every major project milestone to date, except for the LWA issuance. PEF specifically chose a site, obtained a need determination, applied for a COL and an SCA, and executed the EPC contract. In addition, the fundamental reasons for moving forward with a nuclear project still exist, including fuel diversity and PEF's need for baseload capacity that reduces greenhouse gas emissions. Contrary to what several intervenor witnesses assert, the long-term feasibility of the LNP cannot be based on a cost-effective analysis like what was done to support the need determination proceeding. The Company does not, and should not, evaluate the feasibility of completing the LNP based on annual fluctuations in natural gas prices, emission costs, and load. If the Company believed that annual changes in such forecasts were determinative of the feasibility of completing the nuclear power plants, the Company could never build a nuclear power plant. PEF is moving forward with the LNP because it believes it is feasible, based on the best available information to the Company.

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 Florida Public Service Commission ("FPSC" or "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: Should over or under collections in the Capacity Cost Recovery Clause be included in the calculation of recoverable costs in the NCRC?

PEF Position:

No. True capacity clause under or over recoveries should not be included in the calculation of recoverable costs in the NCRC. However, if the Commission approves deferral of collection of certain NCRC costs and thereby removes them from rates, they should not be reflected in the Capacity Cost Recovery Clause over or under recovery. Pursuant to Section 366.93(1)(f), the utility is entitled to and therefore should recover a carrying charge equal to the utility's allowance for funds used during construction rate until recovered in rates. (Foster)

ISSUE 2: When a utility elects to defer recovery of some or all of the costs that the Commission approves for recovery through the Capacity Cost Recovery Clause, what carrying charge should accrue on the deferred balance?

PEF Position:

Pursuant to Section 366.93(1)(f) and Rule 25-6.0423(5)(a), the utility is entitled to and therefore should recover a carrying equal to the utility's allowance for funds used during construction rate until costs are recovered in rates. If a utility has been granted permission by the Commission to defer collection of costs that were previously approved for recovery and thereby removes these costs from rates, they are not recovered and per the statute and rule should accrue the above carrying charge. By not recovering these deferred costs in the year in which they are entitled to recovery, those costs are not included in rates and therefore the utility is entitled to earn a return on them. (Foster)

ISSUE 3: Should FPL and PEF be permitted to record in rate base the incremental difference between Allowance for Funds Used During Construction (AFUDC) permitted by Section 366.93, F.S. and their respective most currently approved AFUDC, for recovery when the nuclear plant enter commercial operation?

PEF Position:

No, FPL and PEF should not be permitted to record in rate base the incremental difference between AFUDC permitted by Section 366.93 and their respective most currently approved AFUDC for recovery when the nuclear plant enters commercial operation. The nuclear cost recovery statute clearly sets forth the carrying charge to be applied to the recovery of nuclear costs. Section 366.93 fixes the carrying charge at the last approved AFUDC rate at the time the need

was approved to promote nuclear investment. Any attempt to capture incremental differences between the carrying charge authorized by Section 366.93 and the most currently approved AFUDC rate through NCRC or Base Rates would violate the legislation. (Foster)

2. FACTUAL ISSUES

PEF Project Management and Oversight

ISSUE 19: Should the Commission find that for the years 2006 and 2007, PEF's accounting and costs oversight controls were reasonable and prudent for Levy Units 1 & 2 project?

PEF Position:

Yes, for the years 2006 and 2007, PEF's accounting and costs oversight controls were reasonable and prudent for 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, Miller, Furman)

ISSUE 20: Should the Commission find that for the years 2006 and 2007, PEF's project management, contracting, and oversight controls were reasonable and prudent for Levy Units 1 & 2 project?

PEF Position:

Yes, for the years 2006 and 2007, PEF's project management, contracting, and oversight controls were reasonable and prudent for 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, including how to conduct RFPs to solicit bids from various vendors, and when sole source contracts are justified. (Miller, Furman)

ISSUE 21: Should the Commission find that for the year 2008, PEF's project management, contracting, and oversight controls were reasonable and prudent for Levy Units 1 & 2 project and the Crystal River Unit 3 Uprate project?

PEF Position:

Yes, for the year 2008, 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, including how to conduct RFPs to solicit bids from various vendors, and when sole source contracts are justified. (Franke, Miller, Furman, Doughty)

ISSUE 21A: Was it reasonable and prudent for PEF to execute its EPC contract at the end of 2008? If the commission finds that this action was not reasonable and prudent, what actions, if any, should the Commission take?

PEF Position:

PEF acted reasonably and prudently in executing the EPC contract at the end of 2008. First, execution of the EPC contract in December 2008 preserved benefits that were obtained for PEF and its customers after about two years of hard-fought negotiations with the Consortium. The details of these benefits, which are confidential, are outlined in Mr. Miller's and Mr. Lyash's rebuttal testimony. In addition, the EPC contract execution provided an orderly framework for the adjustment to the schedule and the amendment of the EPC contract for such risks as the NRC decision regarding the LWA that occurred. Finally, and contrary to testimony by intervener witnesses, PEF did not know and could not have known in December 2008 that the NRC would refuse to review the LWA in a timeframe to allow PEF to perform site work before COL issuance. As late as December 4, 2008, the NRC Project Manager for the Levy COL indicated in a public meeting that he expected an LWA review to take 2 years, which is less than the approximately 30 months PEF allowed in its schedule for the NRC review. (Lyash, Miller, Thompson, Doughty)

ISSUE 22: Should the Commission find that for the year 2008, PEF's accounting and costs oversight controls were reasonable and prudent for 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, Miller, Furman)

PEF's Project Feasibility

ISSUE 23: Should the Commission approve what PEF has submitted as its annual detailed analyses of the long-term feasibility of continuing construction and completing the Levy Units 1 & 2 project, as provided for in Rule 25-6.0423, F.A.C., and Order No. PSC-08-0518-FOF-EI (Determination of Need Order)?

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 Garry Miller, 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 Determination of Need Order. The rule and the need order do not contain any detailed specifications as to what the Company's analysis should include, so PEF included the information its management uses to determine whether the LNP can be completed. The LNP is feasible based on facts, circumstances, and information known to date. The AP 1000 technology remains a viable technology. The Company has met every major project milestone to date, except for the LWA issuance. PEF specifically chose a site, obtained a need determination, applied for a COL and an SCA, and executed the EPC contract. In addition, the fundamental reasons for moving forward with a nuclear project still exist, including fuel diversity and PEF's need for baseload capacity that reduces greenhouse gas emissions. Despite what several intervener witnesses assert, the long-term feasibility of the LNP cannot be based on a cost-effective analysis like what was done to support the need determination proceeding. The Company does not, and should not, evaluate whether the LNP can be completed based on annual fluctuations in natural gas prices, emission costs, and load. If the Company believed that annual changes in such forecasts were determinative of the feasibility of completing the nuclear power plants, the Company could never build a nuclear power plant. PEF is moving forward with the LNP because it believes it is feasible, based on the best available information to the Company. (Lyash, Miller)

ISSUE 23A: If the Commission does not approve PEF's long term feasibility analyses of Levy Units 1 & 2, what further action, if any, should the Commission take?

PEF Position:

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. The Commission should not disallow any of PEF's requested cost recovery amounts, because PEF was not on prior notice as to how

the Commission would interpret Rule 25-6.0423 and the Determination of Need Order. Therefore, due process requires that PEF be afforded an opportunity to submit additional information. (Miller, Lyash)

ISSUE 23B: What further steps, if any, should the Commission require PEF to take regarding the Levy Units 1 & 2?

PEF Position:

The Commission has all the information it needs to make a prudence determination on the Company's costs and actions for 2006-2008, and it has all the information it needs to determine that its costs are reasonable for 2009 and 2010. The purpose of this proceeding, as set forth in Rule 25-6.0423, is to make prudence determinations as to costs actually incurred in 2008. There is therefore nothing else the Commission should require PEF to do with respect to Levy Units 1 & 2.

ISSUE 24: Should the Commission approve what PEF has submitted as its annual detailed analyses 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.?

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 updated Integrated Project Plan ("IPP") for the CR3 Uprate, the costs for the project are still bounded by the project's original Business Analysis Package ("BAP"). The project is on schedule and none of the identified project risks, including regulatory approval risks, are expected to affect the feasibility of completing the project. (Franke, Thompson)

PEF's Crystal River Unit 3 Uprate Project

ISSUE 25: What system and jurisdictional amounts should the Commission approve as PEF's final 2008 prudently incurred costs for the Crystal River Unit 3 Uprate project?

PEF Position:

Capital Costs (System) \$65,137,303; (Jurisdictional) \$43,898,888
O&M Costs (System) \$180,076; (Jurisdictional) \$166,588 (Franke, Garrett)

ISSUE 26: What system and jurisdictional amounts should the Commission approve as PEF's reasonably estimated 2009 costs for the Crystal River Unit 3 Uprate project?

PEF Position:

Capital Costs (System) \$126,126,306; (Jurisdictional) \$91,712,976
O&M Costs (System) \$8,108,218; (Jurisdictional) \$7,596,559 (Foster, Franke)

ISSUE 27: What system and jurisdictional amounts should the Commission approve as PEF's reasonably projected 2010 costs for the Crystal River Unit 3 Uprate project?

PEF Position:

Capital Costs (System) \$49,872,156; (Jurisdictional) \$58,380,739
O&M Costs (System) \$244,268; (Jurisdictional) \$214,203 (Foster, Franke)

PEF's Levy Units 1 & 2 Project

ISSUE 28: What system and jurisdictional amounts should the Commission approve as PEF's final 2006 and 2007 prudently incurred costs for the Levy Units 1 & 2 project as filed in Docket No. 080009-EI?

PEF Position:

Capital Costs (System) \$87,406,779; (Jurisdictional) \$71,828,329
O&M Costs (System) \$707,867; (Jurisdictional) \$547,473 (Furman, Garrett, Miller)

ISSUE 29: What system and jurisdictional amounts should the Commission approve as PEF's final 2008 prudently incurred costs for the Levy Units 1 & 2 project?

PEF Position:

Capital Costs (System) \$155,306,978; (Jurisdictional) \$138,609,648
O&M Costs (System) \$4,167,550; (Jurisdictional) \$3,784,810 (Furman, Garrett, Miller)

ISSUE 30: What system and jurisdictional amounts should the Commission approve as reasonably estimated 2009 costs for PEF's Levy Units 1 & 2 project?

PEF Position:

Capital Costs (System) \$316,501,103; (Jurisdictional) \$279,598,436
O&M Costs (System) \$5,513,853; (Jurisdictional) \$4,931,288 (Foster, Furman, Miller)

ISSUE 31: What system and jurisdictional amounts should the Commission approve as reasonably projected 2010 costs for PEF's Levy Units 1 & 2 project?

PEF Position:

Capital Costs (System) \$188,549,039; (Jurisdictional) \$149,520,191
O&M Costs (System) \$5,201,011; (Jurisdictional) \$4,433,053 (Foster, Furman, Miller)

PEF's 2010 Capacity Cost Recovery Clause Amount

ISSUE 32: Should the Commission approve PEF's alternative cost recovery proposal, as set forth in PEF's Petition and supporting Testimony, as to recovery of NCRC costs?

PEF Position:

Yes, the Commission should approve PEF's alternative cost recovery proposal due to both the current economic climate and to provide the ratepayer some immediate relief as stated in PEF's petition filed May 1, 2009 in docket # 090009. (Foster)

ISSUE 32A: If the answer to Issue 32 is yes, what is the total jurisdictional amount to be included in establishing PEF's 2010 Capacity Cost Recovery Clause factor?

PEF Position:

Revenue Requirements as filed	Uprate	Levy- Alternative	Total
Site Selection/Preconstruction Revenue Req.	-	140,061,631	140,061,631
Construction Carrying Cost Rev Req. (1)	4,787,159	11,563,622	16,350,781
Recoverable O&M Revenue Req.	214,203	4,433,053	4,647,256
DTA (2)	538,543	9,788,420	10,326,963
Prior Period Over/ (Under) Recovery (3)	(5,128,953)	(59,735,433)	(64,864,387)
Total Period Revenue Req.	10,668,858	225,582,158	236,251,016
Revenue Tax Multiplier	1.00072	1.00072	1.00072
Total Projected Revenue Req.	10,676,540	225,744,578	236,421,117

(1) This amount represents the carrying costs on construction expenditures.

(2) This amount represents the carrying cost on the deferred tax asset.

(3) For Levy this amount represents the collection of one fifth of the deferred balance from prior periods.

ISSUE 32B: If the answer to Issue 32 is no, what is the total jurisdictional amount to be included in establishing PEF's 2010 Capacity Cost Recovery Clause factor?

PEF Position:

Revenue Requirements as filed	Uprate	Levy- Traditional NCRC	Total
Site Selection/Preconstruction Revenue Req.	-	106,122,607	106,122,607
Construction Carrying Cost Rev Req. (1)	4,787,159	11,563,622	16,350,781
Recoverable O&M Revenue Req.	214,203	4,433,053	4,647,256
DTA (2)	538,543	14,530,485	15,069,028
Prior Period Over/ (Under) Recovery	(5,128,953)	(298,677,165)	(303,806,119)
Total Period Revenue Req.	10,668,858	435,326,932	445,995,790
Revenue Tax Multiplier	1.00072	1.00072	1.00072
Total Projected Revenue Req.	10,676,540	435,640,367	446,316,907

(1) This amount represents the carrying costs on construction expenditures.

(2) This amount represents the carrying cost on the deferred tax asset.

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
04692-09	Request for Confidential Classification regarding Audit Report No. 248-2	5/14/09
05147-09	Third Request for Confidential Classification regarding direct testimony of Garry Miller, portions of exhibits to direct	5/22/09

	testimony of Thomas Foster, portions of documents produced in response to OPC's 1 st Request for Production (Nos. 1-52), OPC's 1 st Set of Interrogatories (Nos. 1-19), and Staff's 2 nd Request for Production (Nos. 2-11)	
05676-09	Fourth Request for Confidential Classification regarding documents produced in response to OPC's 2 nd Request for Production of Documents (Nos. 53-59)	6/5/09
06085-09	Fifth Request for Confidential Classification regarding documents produced in response to OPC's 3 rd Request for Production of Documents (Nos. 60-64)	6/18/09
06398-09	Sixth Request for Confidential Classification regarding documents produced in response to Staff's 3 rd Request for Production of Documents (Nos. 12-21) and Supplemental Response to OPC's 1 st Request for Production of Documents (Nos. 1-52)	6/25/09
06698-09	Seventh Request for Confidential Classification regarding response to Staff's 2 nd Set of Interrogatories (Nos. 13-33) and documents produced in response to Audit Control No. 08-248-2-1	07/02/09
07087-09	Eighth Request for Confidential Classification regarding response to OPC's 3 rd set of Interrogatories (Nos. 28-49) and documents produced in response to OPC's 4 th Request for Production of Documents (Nos. 65-47)	7/14/09
07279-09	Ninth Request for Confidential Classification regarding the response to OPC's 5 th Request for Production of Documents (Nos. 75-80)	7/17/09
07392-09	Tenth Request for Confidential Classification regarding response to Staff's 3 rd Set of Interrogatories (Nos. 34-38)	7/21/09
07586-09	Eleventh request for confidential classification regarding the review of Progress' project management internal controls for nuclear plant uprate and construction projects draft report	7/24/09
07727-09	Twelfth request for confidential classification regarding documents provided to PSC's auditor for preparation of review of project management internal controls for nuclear plant uprate and construction projects draft report	7/28/09
07721-09	Thirteenth Request for Confidential Classification re Responses OPC 6 th Interrogatories (Nos. 65 and 70) and	7/28/09

	OPC's 7 th Request for Production (Nos. 89, 92, 94 and 96)	
08011-09	Fourteenth Request for Confidential Classification re Deposition of G. Miller and documents produced in response to White Springs 2 nd Request for Production (Nos. 18-19)	8/4/09
08060-09	Fifteenth Request for Confidential Classification re Supplemental response to White Springs 1 st Request for Production (No. 5) and supplemental response to OPC 7 th Request for Production (No. 92)	8/5/09
07440-09	7/22/09 Twelfth Notice of Intent to Request Confidential Classification re Deposition of J. Franke	Due: 8/12/09
07526-09	7/23/09 Thirteenth Notice of Intent to Request Confidential Classification re Portions of Jacobs' Testimony and Exhibit WRJ-3	Due: 8/13/09
07689-09	7/27/09 Fourteenth Notice of Intent to Request Confidential Classification re PEF Responses to Staff's Fourth Request for Production, specifically No. 28	Due: 8/17/09
08183-09	8/7/09 Fifteenth Notice of Intent to Request Confidential Classification re Portions of William R. Jacobs, Jr. Deposition Transcript taken 7/27/09	Due: 8/28/09
	8/10/09 Sixteenth Notice of Intent re Portions of Rebuttal Testimony and Exhibits of G. Miller, J. Lyash, and G. Doughty	Due: 8/31/09

I. REQUIREMENTS OF PREHEARING ORDER THAT CANNOT BE MET.

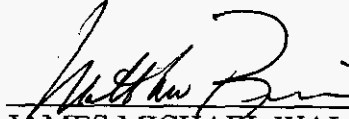
Because discovery is continuing in this matter, PEF must reserve the right to use witnesses and exhibits other than or different from those identified hereinabove, in order to respond to ongoing developments in the case. PEF further reserves the right to amend any of its positions to the issues to respond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

K. OBJECTIONS TO WITNESSES' QUALIFICATIONS

None.

Respectfully submitted,

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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 10th day of August, 2009.


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