

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Nuclear cost recovery clause.

DOCKET NO. 100009-EI
ORDER NO. PSC-10-0538-PHO-EI
ISSUED: August 20, 2010

Pursuant to Notice and in accordance with Rule 28-106.209, Florida Administrative Code (F.A.C.), a Prehearing Conference was held on August 11, 2010, in Tallahassee, Florida, before Commissioner Nathan A. Skop, as Prehearing Officer.

APPEARANCES:

R. ALEXANDER GLENN, ESQUIRE, JOHN T. BURNETT, ESQUIRE, Progress Energy Service Company, LLC, 299 First Avenue, N. PEF-151, St. Petersburg, FL 33701, JAMES MICHAEL WALLS, ESQUIRE, BLAISE N. HUHTA, ESQUIRE, and MATTHEW R. BERNIER, ESQUIRE, Carlton Fields P.A., Post Office Box 3239, Tampa, Florida 33601-3239
On behalf of Progress Energy Florida, Inc. (PEF)

R. WADE LITCHFIELD, ESQUIRE, BRYAN S. ANDERSON, ESQUIRE, MITCHELL S. ROSS, ESQUIRE and JESSICA A. CANO, ESQUIRE, Florida Power & Light Company, 700 Universe Boulevard, Juno Beach, Florida 33408-0420
On behalf of Florida Power & Light Company (FPL)

JOSEPH A. MCGLOTHLIN, ESQUIRE, and CHARLES J. REHWINKEL, ASSOCIATE PUBLIC COUNSEL, Office of Public Counsel, c/o The Florida Legislature, 111 West Madison Street, Room 812, Tallahassee, Florida 32399-1400
On behalf of Office of Public Counsel (OPC)

JAMES W. BREW, ESQUIRE, and F. ALVIN TAYLOR, ESQUIRE, Brickfield, Burchette, Ritts & Stone, P.C., 1025 Thomas Jefferson St., NW, Eighth Floor, West Tower, Washington, DC 20007
On behalf of White Springs Agricultural Chemicals, Inc., d/b/a PCS Phosphate-White Springs (PCS Phosphate)

JON C. MOYLE, JR., ESQUIRE, and VICKI GORDON KAUFMAN, ESQUIRE, Keefe, Anchors, Gordon & Moyle, P.A., 118 North Gadsden Street, Tallahassee, FL 32312, and JOHN W. MCWHIRTER, JR., ESQUIRE, Post Office Box 3350, Tampa, Florida 33601
On behalf of Florida Industrial Power Users Group (FIPUG)

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On behalf of Southern Alliance for Clean Energy (SACE)

CAPTAIN SHAYLA L. MCNEILL, ESQUIRE, AFCESA, Federal Executive Agencies, c/o AFLSA/JACL-ULT, 139 Barnes Avenue, Suite 1, Tyndall Air Force Base, Florida 32403-5319
On behalf of Federal Executive Agencies (FEA)

KEINO YOUNG, ESQUIRE, ANNA R. WILLIAMS, ESQUIRE, and LISA BENNETT, ESQUIRE, Florida Public Service Commission, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850
On behalf of the Florida Public Service Commission (Staff)

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Advisor to the Florida Public Service Commission

PREHEARING ORDER

I. BACKGROUND

In 2006, the Florida Legislature adopted legislation encouraging the development of nuclear energy in the state. Section 366.93, Florida Statutes (F.S.), directed the Commission to adopt rules providing for alternate cost recovery mechanisms that will encourage investor-owned electric utilities to invest in nuclear power plants. The Commission adopted Rule 25-6.0423, Florida Administrative Code (F.A.C.), which provides for a clause recovery proceeding annually to consider investor-owned utilities' requests for cost recovery for nuclear plants.

Both Florida Power & Light Company (FPL) and Progress Energy Florida, Inc. (PEF) petitioned the Commission for recovery of costs through the Nuclear Cost Recovery Clause (NCRC) on March 1, 2010. This is the third year of this roll-over docket, which is set for hearing on August 24-27, 2010. The Office of Public Counsel (OPC), the Florida Industrial Power Users Group (FIPUG), White Springs Agricultural Chemicals, Inc. d/b/a PCS Phosphate – White Springs (PCS-Phosphate), Southern Alliance for Clean Energy (SACE), and the Federal Executive Agencies (FEA) have each been granted intervention in this docket. On August 3, 2010, Prehearing Statements were filed by FPL, PEF, Staff, and all the intervenors.

II. CONDUCT OF PROCEEDINGS

Pursuant to Rule 28-106.211, F.A.C., this Prehearing Order is issued to prevent delay and to promote the just, speedy, and inexpensive determination of all aspects of this case.

III. JURISDICTION

This Commission is vested with jurisdiction over the subject matter by the provisions of Chapter 366, Florida Statutes (F.S.). This hearing will be governed by said Chapter and Chapters 25-6, 25-22, and 28-106, F.A.C., as well as any other applicable provisions of law.

IV. PROCEDURE FOR HANDLING CONFIDENTIAL INFORMATION

Information for which proprietary confidential business information status is requested pursuant to Section 366.093, F.S., and Rule 25-22.006, F.A.C., shall be treated by the Commission as confidential. The information shall be exempt from Section 119.07(1), F.S., pending a formal ruling on such request by the Commission or pending return of the information to the person providing the information. If no determination of confidentiality has been made and the information has not been made a part of the evidentiary record in this proceeding, it shall be returned to the person providing the information. If a determination of confidentiality has been made and the information was not entered into the record of this proceeding, it shall be returned to the person providing the information within the time period set forth in Section 366.093, F.S. The Commission may determine that continued possession of the information is necessary for the Commission to conduct its business.

It is the policy of this Commission that all Commission hearings be open to the public at all times. The Commission also recognizes its obligation pursuant to Section 366.093, F.S., to protect proprietary confidential business information from disclosure outside the proceeding. Therefore, any party wishing to use any proprietary confidential business information, as that term is defined in Section 366.093, F.S., at the hearing shall adhere to the following:

- (1) When confidential information is used in the hearing, parties must have copies for the Commissioners, necessary staff, and the court reporter, in red envelopes clearly marked with the nature of the contents and with the confidential information highlighted. Any party wishing to examine the confidential material that is not subject to an order granting confidentiality shall be provided a copy in the same fashion as provided to the Commissioners, subject to execution of any appropriate protective agreement with the owner of the material.
- (2) Counsel and witnesses are cautioned to avoid verbalizing confidential information in such a way that would compromise confidentiality. Therefore, confidential information should be presented by written exhibit when reasonably possible.

At the conclusion of that portion of the hearing that involves confidential information, all copies of confidential exhibits shall be returned to the proffering party. If a confidential exhibit has been admitted into evidence, the copy provided to the court reporter shall be retained in the Office of Commission Clerk's confidential files. If such material is admitted into the evidentiary record at hearing and is not otherwise subject to a request for confidential classification filed with the Commission, the source of the information must file a request for confidential classification of the information within 21 days of the conclusion of the hearing, as set forth in Rule 25-22.006(8)(b), F.A.C., if continued confidentiality of the information is to be maintained.

V. PREFILED TESTIMONY AND EXHIBITS; WITNESSES

Testimony of all witnesses to be sponsored by the parties (and Staff) has been prefiled and will be inserted into the record as though read after the witness has taken the stand and affirmed the correctness of the testimony and associated exhibits. All testimony remains subject to timely and appropriate objections. Upon insertion of a witness' testimony, exhibits appended thereto may be marked for identification. Each witness will have the opportunity to orally summarize his or her testimony at the time he or she takes the stand. Summaries of testimony shall be limited to five minutes.

Witnesses are reminded that, on cross-examination, responses to questions calling for a simple yes or no answer shall be so answered first, after which the witness may explain his or her answer. After all parties and Staff have had the opportunity to cross-examine the witness, the exhibit may be moved into the record. All other exhibits may be similarly identified and entered into the record at the appropriate time during the hearing.

The Commission frequently administers the testimonial oath to more than one witness at a time. Therefore, when a witness takes the stand to testify, the attorney calling the witness is directed to ask the witness to affirm whether he or she has been sworn.

The parties shall avoid duplicative or repetitious cross-examination. Further, friendly cross-examination will not be allowed. Cross-examination shall be limited to witnesses whose testimony is adverse to the party desiring to cross-examine. Any party conducting what appears to be a friendly cross-examination of a witness should be prepared to indicate why that witness's direct testimony is adverse to its interests.

VI. ORDER OF WITNESSES

The order of witnesses is as follows:

PROGRESS ENERGY FLORIDA

<u>Witness</u>	<u>Proffered By</u>	<u>Issues #</u>
<u>Direct</u>		
Will Garrett	PEF	4, 9, 12
Thomas G. Foster	PEF	10, 11, 13, 14, 15
Gary Doughty	PEF	5
Dr. Patricia Galloway	PEF	7
Jon Franke	PEF	4, 5, 8, 9, 10, 11
Ken Karp	PEF	4, 5, 12, 13, 14
Sue Hardison	PEF	4, 5, 12, 13, 14
John Elnitsky	PEF	5, 7
Jeff Lyash	PEF	6, 7
Williams R. Jacobs, Jr., Ph.D	OPC	3 (Non-Legal), 5, 7, 21
Dr. Mark Cooper	SACE (PEF & FPL witness)	6, 7, 13, 14, 18, 19, 25, 26
Arnold Gunderson	SACE (PEF & FPL witness)	6, 7, 13, 14, 18, 19, 25, 26
Joint Testimony of William Coston and Kevin Carpenter	STAFF	5
<u>Rebuttal</u>		
Jon Franke	PEF	5, 8, 9, 10, 11
John Elnitsky	PEF	6, 7
Jeff Lyash	PEF	6, 7

FLORIDA POWER & LIGHT COMPANY

<u>Witness</u>	<u>Proffered By</u>	<u>Issues #</u>
<u>Direct</u>		
Steven D. Scroggs	FPL	1, 16-19, 24-26
Nils Diaz The ND2 Group	FPL	19, 24-26
Terry O. Jones	FPL	16-17, 20-23
Winnie Powers	FPL	16, 21-27
Steven R. Sim	FPL	18, 20
John J. Reed Concentric Energy Advisors, Inc.	FPL	16 -26
Williams R. Jacobs, Jr., Ph.D	OPC	3 (Non-Legal), 5, 7, 21
Dr. Mark Cooper	SACE (PEF & FPL witness)	6, 7, 13, 14, 18, 19, 25, 26
Arnold Gunderson	SACE (PEF & FPL witness)	6, 7, 13, 14, 18, 19, 25, 26
Joint Testimony of Lynn Fisher and David Rich	STAFF	17
<u>Supplemental Testimony</u>		
Winnie Powers	FPL	22-23, 27
<u>Rebuttal</u>		
Steven D. Scroggs	FPL	1, 18-19, 24-26
Nils Diaz The ND2 Group	FPL	1, 19, 24-26
Paul Jacobs	FPL	18, 19
Terry O. Jones	FPL	3, 20

<u>Witness</u>	<u>Proffered By</u>	<u>Issues #</u>
Steven R. Sim	FPL	18, 20
John J. Reed Concentric Energy Advisors, Inc.	FPL	1, 3, 18-20

VII. BASIC POSITIONS

PEF: **CR3 Uprate Project.**

The Florida Public Service Commission (“FPSC” or “Commission”) granted the need determination for the Crystal River 3 (“CR3”) Extended Power Uprate Project (“CR3 Uprate”) on February 8, 2007. The CR3 Uprate project is a three-phase project involving the engineering, design, equipment procurement, and equipment installation necessary to generate an additional, estimated 180 MWe of efficient nuclear power at the Company’s existing nuclear unit. The work necessary for this project was divided into three phases to be performed during separate, planned re-fueling outages at CR3. The first phase of the work was successfully completed during the 2007 CR3 refueling outage and it was brought online in January, 2008, providing PEF and its customers with an additional 12 MWe of nuclear energy generation. The second phase of the work, called the balance of plant (“BOP”) work, was planned for the 2009 CR3 refueling outage. The BOP work performed during the 2009 CR3 refueling outage was successfully completed on schedule and on budget for that phase. When CR3 returns to service the BOP phase work will yield an additional 4 MWe nuclear energy production.

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

Pursuant to Section 366.93, Florida Statutes, and Rule 25-6.0423, F.A.C., PEF filed a petition on March 1, 2010, for cost recovery of its CR3 Uprate project costs. PEF also filed certain Nuclear Filing Requirement (“NFR”) schedules, specifically Schedules T-1 through T-7B and Appendices, in support of PEF’s

actual costs for 2009. In addition, on March 1, 2010, PEF filed testimony regarding the CR3 Uprate costs and the Company's project management and cost oversight policies and procedures. PEF then filed, on April 30, 2010, a petition, additional testimony, and NFR schedules AE-1 through AE-7B and P-1 through P-8 and Appendices, for years 2010 and 2011, respectively, in support of PEF's actual/estimated costs for 2010 and projected costs for 2011 and schedules TOR-1 through TOR-7, which reflect total project estimated costs.

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

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

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

Intervener witness Jacobs expresses general concerns regarding the technical complexity of the project and the LAR submittal schedule, but Jacobs does not recommend that the Company stop work on the EPU at all or until the NRC approves the LAR, and does not claim, therefore, that the Company's current project schedule is imprudent. Jacobs further does not claim that the EPU phase work cannot be successfully completed or that the LAR for the EPU will not be

approved by the NRC. Jacobs nowhere claims in his testimony that continued work on the EPU phase is imprudent. Jacobs recommends that the Commission require PEF to provide an updated feasibility analysis and demonstrate that PEF's project schedule was prudent next year based on the results of the NRC's future review of the LAR for the CR3 Uprate. This recommendation is premised on Jacobs' misconception that the design, engineering, and procurement of equipment for the EPU can be separated from the preparation of the LAR for NRC review and approval to reduce the risk of investment in the project before LAR approval. This is the same argument Jacobs asserted in last years NCRC docket. The Commission did not accept this position last year when it approved PEF's requested cost recovery for the CR3 Uprate project and it should not accept this position this year. See Commission Order No. PSC-09-0783-FOF-EI. This position is simply inconsistent with the necessary structure of the CR3 Uprate project work to successfully complete the project and achieve the power uprate.

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

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

Pursuant to Rule 25-6.0423(5)(c)5, PEF has also demonstrated the long-term feasibility of completing the CR3 Uprate project. As demonstrated in the direct testimony of Jon Franke, the Company analyzed qualitative and quantitative factors necessary to determine if the CR3 Uprate project remains feasible going into Phase 3 and determined that the CR3 Uprate project remains feasible. Consequently, PEF requests that the Commission approve its feasibility analysis for the CR3 Uprate project.

Levy Nuclear Project

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

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

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

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

PEF has also reasonably estimated and projected its capital preconstruction and construction LNP costs for 2010 and 2011, in the amount of ***** and *****, respectively. None of the Staff or intervenor witnesses identify any specific, actual/estimated 2010 or projected 2011 LNP cost that is not reasonable. The actual/estimated 2010 and projected 2011 LNP costs reflect the Company's decision regarding the LNP schedule and its focus on obtaining key state and federal permits for the LNP.

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

Pursuant to Rule 25-6.0423(5)(c)5, PEF demonstrated the long-term feasibility of completing the LNP. The Company employed a two-step process to determine if the LNP is feasible. First, the Company employed a qualitative analysis of the technical and regulatory capability of completing the plants, the risks, and the costs and benefits of completing the Levy nuclear power plants. The second step was an updated, quantitative cumulative life-cycle net present value revenue requirements ("CPVRR") economic analysis that includes comparisons to the cost-effectiveness CPVRR analysis in the Company's need determination proceeding for the LNP described in Order No. PSC-08-0518-FOF-EI. The Company's fuels, environmental, and load forecasts in its current feasibility analysis were performed in the same manner that the same forecasts were prepared in the previously-approved feasibility analysis. These Company forecasts were further prepared in a manner that is consistent with the forecast methodology approved by the Commission in other proceedings and dockets before the Commission. The updated CPVRR indicates that the LNP is economically viable and has the potential to provide PEF and its customers with fuel and environmental cost savings over the life of the project. The LNP is also

feasible from a regulatory and technical perspective. The NRC is proceeding with the AP1000 design review towards a final rule approving that nuclear reactor design and the NRC is proceeding with its review of the LNP Combined Operating License Application (“COLA”) towards issuance of the LNP Combined Operating License (“COL”). There are no technical design issues that have side-tracked this on-going NRC licensing review and there is no indication that any technical issue with respect to the AP1000 design will prevent the successful completion of these licensing activities and the application of that nuclear reactor design to the LNP site.

In addition to determining that the LNP is still feasible, the Company analyzed whether proceeding with the LNP at this time is in the best interests of the Company and its customers. The Company evaluated the options reasonably available to it under the circumstances and concluded that LNP work except work necessary to obtain key federal permits, in particular, the COL, and the completion of certain long lead time equipment work where most cost-effective to do so, should be suspended until the LNP COL is obtained. This is the most reasonable course of action at this time and is the right decision for the Company and its customers.

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

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

FPL: Section 403.519(4), Florida Statutes, Section 366.93, Florida Statutes, and Rule 25-6.0423, Florida Administrative Code (“the Rule”) establish the legal and regulatory framework for the recovery of costs in the development of nuclear generation in Florida. Section 403.519(4), Florida Statutes, applies to the determination of need for a nuclear- fueled power plant and emphasizes the Florida Legislature’s desire to improve fuel diversity, reduce dependence on fuel oil and natural gas, reduce air emission compliance costs, and contribute to the

long-term stability and reliability of the electric grid in Florida. It further makes clear that a utility is entitled to recover all prudently incurred costs. Specifically, it states that after a determination of need is granted, “the right of a utility to recover any costs incurred prior to commercial operation, including but not limited to costs associated with the siting, design, licensing, or construction of the plant...shall not be subject to challenge” unless a preponderance of the evidence supports a finding that certain costs were imprudently incurred. *See* § 403.519(4)(e), Fla. Stat.

Section 366.93, Florida Statutes, requires the Commission to establish by rule a cost recovery framework that promotes utility investment in nuclear power plants and allows for the recovery of all prudently incurred preconstruction costs and the carrying costs on construction cost balances. It also entitles utilities to increase their base rates upon commercial operation of the nuclear power plant, requires annual reporting of budgeted and actual costs, and provides for cost recovery should the project be cancelled. *See* § 366.93(4), (5), and (6), Fla. Stat., respectively. In response to this legislative direction, the Commission promulgated Rule 25-6.0423, Florida Administrative Code (“the Rule”). The stated purpose of the Rule is to establish an alternative cost recovery mechanism that promotes utility investment in nuclear power plants and allow for recovery of all prudently incurred costs. It also provides for the recovery of reasonable actual/estimated costs for the current year and reasonable projected costs for the following year.

FPL is currently undertaking two nuclear projects that qualify for cost recovery under the Nuclear Cost Recovery Clause (“NCRC”) process described above – the development of new nuclear units Turkey Point 6 & 7 and the Extended Power Uprate project (“EPU” or “Uprate Project”) at its St. Lucie and Turkey Point plants. Each project was granted an affirmative determination of need by the Commission pursuant to Section 403.519(4), Florida Statutes, and FPL is therefore entitled to recover all its prudent and reasonable costs. *See* Order No. PSC-08-0021-FOF-EI, issued January 7, 2008 (making an affirmative determination of need for FPL’s EPU project) and Order No. PSC-08-0237-FOF-EI, issued April 11, 2008 (making an affirmative determination of need for Turkey Point 6 & 7). As required by the Rule, and as demonstrated in the testimony, exhibits, and Nuclear Filing Requirements (“NFRs”) filed in this docket, FPL’s expenditures through 2009 on each of these projects were prudently incurred, and FPL’s actual/estimated 2010 expenditures and projected 2011 expenditures are reasonable.

For Turkey Point 6 & 7, 2009 pre-construction costs were necessarily and prudently incurred to continue with the licensing and permitting of the project, for engineering and design, and for power block engineering and procurement. In 2010 and 2011, FPL has incurred and expects to incur licensing and permitting

preconstruction costs to continue with the work necessary to obtain the licenses and permits that will allow for future construction. Throughout the development of Turkey Point 6 & 7, FPL has adhered to a deliberate, step-wise approach focused on maintaining the ability to move forward with the project, while fully recognizing and responding to industry and regulatory uncertainty. As a result, FPL has been able to make prudent and cost-effective decisions each step of the way. FPL's 2009 costs were prudently incurred, and its 2010 actual/estimated costs and 2011 projected costs are reasonable. All of FPL's Turkey Point 6 & 7 costs are supported by overlapping project, budget, cost and schedule controls.

With respect to the Uprate Project, in 2009, FPL prudently incurred necessary project costs related to the license application, engineering and design, permitting, project management, power block engineering and procurement, and non-power block engineering and procurement. Significant progress was made in 2009 to advance this complex undertaking, with implementation activities occurring in 2010 and planned for 2011. FPL's 2009 costs were prudently incurred, and its 2010 actual/estimated costs and 2011 projected costs are reasonable. All of FPL's EPU costs are supported by overlapping project, budget, cost and schedule controls.

Turkey Point 6 & 7 and the Uprate Project both continue to be projected as solidly cost-effective for FPL's customers. FPL has updated the inputs to its long-term feasibility analyses and these analyses show that – assuming a wide range of potential fuel costs, a wide range of potential environmental compliance costs, and updated assumptions for the load forecast and capital costs among others – each of these projects are projected to be solidly cost-effective generation additions for FPL's customers. Indeed, each project is cost-effective in seven out of seven different fuel cost and environmental compliance cost scenarios. Additionally, Turkey Point 6 & 7 is cost-effective in all but one of seven sensitivity scenarios that were run to examine the potential for higher financing costs and the EPU project is cost-effective in all but one of twenty-one sensitivity scenarios that were run to examine the potential for higher financing costs and/or lower than anticipated megawatt output.

Additionally, each project is projected to provide substantial customer benefits. For example, assuming a Medium Fuel Cost and the "Environmental II" compliance cost scenario, the EPU project is projected to provide estimated fuel cost savings for FPL's customers of approximately \$146 million (nominal \$) in the first full year of operation; provide estimated fuel cost savings for FPL's customers over the life of the plant of approximately \$6 billion (nominal \$); diversify FPL's fuel sources by decreasing reliance on natural gas by 3% beginning in the first full year of operation; reduce annual fossil fuel usage by the equivalent of five million barrels of oil or 31 million mmBTU of natural gas; and

reduce carbon dioxide (“CO₂”) emissions by an estimated 33 million tons over the life of the plant.

Similarly, assuming the same fuel and environmental compliance cost scenario, Turkey Point 6 & 7 is projected to provide estimated fuel cost savings for FPL’s customers of approximately \$1.3 billion (nominal \$) in the first full year of operation; provide estimated fuel cost savings for FPL’s customers over the life of the plant of approximately \$95 billion (nominal \$); diversify FPL’s fuel sources by decreasing reliance on natural gas by approximately 12% beginning in the first full year of operation; reduce annual fossil fuel usage by the equivalent of 28 million barrels of oil or 177 million mmBTU of natural gas; and reduce CO₂ emissions by an estimated 284 million tons over the life of the plant, which is the equivalent of operating FPL’s entire generating system with zero CO₂ emissions for 7 years.

For all the reasons discussed above, and as explained in more detail in the direct, supplemental, and rebuttal testimony provided by its witnesses, FPL’s total requested NCRC amount of \$31,288,445¹ should be approved. For a typical residential customer consuming 1,000 kWh per month, this amount equates to an approximate monthly bill impact of \$0.33. FPL’s request consists of (i) carrying charges on site selection costs for Turkey Point 6 & 7; (ii) pre-construction costs and associated carrying charges for continued development of Turkey Point 6 & 7; and (iii) carrying charges on construction costs, operations and maintenance (“O&M”) costs, and base rate revenue requirements for in-service systems for the Uprate Project, all as provided for in Section 366.93, Florida Statutes and the Rule. FPL’s request complies with the requirements of Section 366.93, Florida Statutes, complies with the Rule, and will enable the proper recovery of costs incurred in the pursuit of additional nuclear generation for the benefit of FPL’s customers.

OPC: **PEF**

PEF is seeking recovery of costs for two large nuclear-related projects. Each project is being submitted for approved recovery of costs before any of the related electricity is ever generated. Each project has varying degrees of uncertainty that place ratepayer funds at increased risk.

The Levy Nuclear Plant (LNP) Project is now projected to be delayed for at least 5 years beyond the Commercial Operation Date (COD) identified in the LNP Determination of Need order. OPC contends that based on the evidence in this case, the company’s chosen option of pursuing the Combined License (COL),

¹ The dollar figures referenced herein reflect accounting computational or formulaic errata that will be filed in this docket.

while essentially “mothballing” the rest of the previously planned construction component of the project, demonstrates that the LNP may no longer be eligible for advance recovery. In light of the significant risks that PEF claims has caused the 5 year delay, PEF has a heavy burden of demonstrating that additional customer funds should be spent on a project with a very uncertain future. If it finds that the LNP project remains eligible for advance recovery, the Commission should nevertheless require PEF to further justify its chosen option and demonstrate that advance-paying ratepayers have been given the appropriate priority in the decision making process. Additionally, the Commission should consider deferring cost recovery or placing recovery of costs above the total costs of cancellation (PEF’s Option 1) at risk pending further analysis of the likelihood of continuing with the LNP.

The OPC contends that PEF has not met its burden of demonstrating that it has removed all transmission related costs for projects that are now being continued as unrelated to the LNP project, but which were originally included in the overall LNP project cost estimate

With regard to the CR3 Extended Uprate (EPU), PEF will have spent have spent over two-thirds of the total cost of the project before the License Amendment Request (LAR) will have been filed with the NRC. This PEF strategy introduces a significant degree of risk into the overall viability of the overall EPU project with regard to the ultimate NRC-licensed increased power level of the plant. PEF should be held accountable for the decision that it made regarding the timing of the licensing relative to the expenditure of advance payment ratepayer funds. The Commission should put PEF on notice that its decision related to the timing of expenditures relative to the NRC decision on its yet-to-be-submitted license amendment request (LAR) is still subject to a prudence review based on the facts and circumstances known to the company management at the time they decided to spend customer-provided funds. The OPC also submits that certain costs related to the preparation of the LAR and other increases in project cost may be imprudent and or inadequately justified and should be disallowed for advance recovery.

FPL

FPL’s estimates of costs to complete its uprate projects represent extremely expensive capacity additions. OPC supports Staff’s suggestion of a separate docket within which to examine the reasonableness of FPL’s uprate-related costs.

The methodology with which FPL measures the economic feasibility of its uprate projects is flawed. Treating costs incurred to date as irrelevant to the economic feasibility does not accurately portray feasibility in a situation in which the “target” costs of completion continue to increase rapidly. The Commission

should prescribe an alternative methodology similar to the “breakeven” analysis that FPL employs for new nuclear units to more realistically depict the economic feasibility of the uprate projects.

Currently, because the utilities have no explicit exposure to the possibility of investment loss, they have no adequate incentive to discipline and control costs. As costs and estimates of costs escalate, total project costs can reach levels beyond which it is no longer reasonable or fair to place all risks on customers. With the input of parties, the Commission should devise a risk-sharing plan that will accomplish greater cost controls and protect customers from the consequences of excessive risks.

PCS

PHOSPHATE: PEF’s decision to delay the expected completion of Levy Units 1 and 2 by five years or more, with the estimated total project cost rising by roughly \$5 billion, is surprising only as to its magnitude and the pace at which the project expectations stated in the Need case (Docket No. 080148-EI) have unraveled. PEF asserts that external events that have affected the licensing of the units (*i.e.* the Nuclear Regulatory Commission’s refusal to grant a Limited Work Authorization for certain site preparation and pre-construction activities) necessitated not only a complete realignment of LNP’s licensing, engineering, procurement and construction schedules, but also a reassessment of whether continued pursuit of the project was “in the best interest of the Company and its customers even if completion of the Levy nuclear power plants is still feasible.” (Lyash). PEF further asserts that, based on these changed circumstances, it determined to continue pursuit of a construction and operating license (“COL”) for LNP while curtailing other project expenditures to the extent feasible rather than either cancelling the project or continuing with engineering and procurement as originally planned (the ‘full speed ahead’ option). PCS Phosphate agrees that the changed project circumstances require a fundamental re-assessment of how or if PEF should proceed with LNP, but the options considered by PEF and the assessments provided in this docket by the utility are insufficient.

While possibilities can always be debated with respect to anticipated unit completion dates, natural gas prices in the very distant future, and the eventual outcome of national climate change legislation, based on the changes that are now known and the daunting risks that remain, building the units is not likely to be in the best interests of PEF shareholders, PEF consumers or the Florida economy. This reality is most acutely evident in PEF’s admission that it will be unable to secure joint owner participation until PEF resolves much of the enterprise risk associated with the project (a circumstance that might not be settled until unit start-up testing is completed as far as can be ascertained today). Moreover, it is a virtual certainty, given the expected rate impacts associated with the revised LNP

cost and schedule, that the units are unaffordable for PEF consumers with PEF as the sole owner.

In this docket the Commission should consider whether it is reasonable, given the projected rate impacts, for PEF to continue its pursuit of LNP as the sole owner of the project. In the alternative, the Commission should direct PEF to address in its 2011 filing both OPC's additional scenario alternative and the public interest benefit in authorizing cost recovery for LNP expenditures other than for COL purposes until PEF has secured sufficient joint ownership participation to assure that rate impacts to PEF rate payers, both in nuclear cost recovery and in base rates, can be held to reasonable levels. Finally, given the mounting likelihood of project cancellation, PCS Phosphate agrees with OPC that the Commission should consider deferring cost recovery pending further analysis of the wisdom of continuing with the Levy Nuclear Project.

FIPUG: FIPUG supports the development of cost effective, reasonable and prudent energy sources to serve Florida consumers. However, the development of such energy resources, particularly nuclear power plants, must be accomplished in a reasonable, cost-effective and prudent fashion. Efforts to develop nuclear power plants must be reasonable and prudently take into account changed circumstances and project delays. The utilities should be held to strict proof that activities relating to nuclear power generation are the most reasonable and cost-effective way to serve ratepayer needs.

As to FPL, FIPUG suggests that a separate docket should be opened to review the costs related to FPL's nuclear uprate project. Further, the Commission should require the inclusion of any costs incurred to date as part of the economic feasibility analysis required by the Commission so as to judge the true feasibility of the nuclear project with complete information.

Regarding PEF, PEF's Levy Nuclear Project (LNP) has experienced significant delays. This may well indicate that the project is not currently feasible, especially in light of the many risks and uncertainties it faces in permitting and other processes. The Commission should consider deferring cost recovery until it is determined if the LNP will go forward to completion. As to the CR3 extended uprate (EPU), PEF's decision-making has foisted an unacceptable burden on ratepayers and there is a significant degree of risk as to whether the EPU will be accomplished.

SACE: Rule 25-6.0423, F.A.C. explicitly and unequivocally requires FPL and PEF to submit for Commission review and approval a detailed analysis demonstrating the long-term feasibility of completing the project at issue, in this case, the Turkey Point 6 & 7 project and the Levy Units 1 & 2 project ("projects"). The testimony of SACE expert witnesses Mark Cooper, Ph.D., and Arnold Gundersen, as well as testimony by witnesses for FPL and PEF, establishes that both FPL and PEF have failed to meet their burden to demonstrate the long-term feasibility of these

projects. Therefore, burdening ratepayers with further costs for these projects would not be prudent or reasonable.

In the 2009 Nuclear Cost Recovery hearing (Docket 090009-EI), Dr. Cooper and Mr. Gundersen alerted the Commission to the great uncertainty and risk surrounding the feasibility of these projects. They warned the Commission that this uncertainty and risk would result in significant scheduling delays for the proposed reactors and significant increases in the total costs. PEF and FPL refused to acknowledge this uncertainty and its resulting adverse impacts in the hearing. However, the positions of the utilities in 2010 clearly demonstrate that Dr. Cooper and Mr. Gundersen were absolutely correct. As a result of the utilities' failure to acknowledge what was already apparent in 2009, PEF and FPL ratepayers are on the hook for hundreds of millions of dollars spent on reactors which likely will never be constructed.

Now, in 2010 both PEF and FPL have belatedly acknowledged the great uncertainty and risk surrounding the feasibility of completing these new nuclear reactors in the foreseeable future. As predicted by SACE, this belated admission on the part of PEF and FPL has resulted in significant scheduling delays for all four proposed reactors and corresponding massive cost increases. Therefore, PEF and FPL have both resorted to a strategy of "site banking" by which the utilities have delayed major capital expenditures for the near term and instead are only focused upon obtaining Combined Operating Licenses ("COL") from the Nuclear Regulatory Commission ("NRC"). However, given all of the uncertainty and risk surrounding new nuclear generation in this country and in the State of Florida, neither PEF nor FPL has demonstrated that completion of these reactors is feasible in the long-term, and furthermore neither utility has demonstrated any real commitment to actually construct these proposed reactors. Apparently, both PEF and FPL have recognized, like most other utilities in the United States, that attempting to build new nuclear reactors given current economic conditions is simply not feasible.

Ultimately, it is the responsibility of the Commission to fix "fair, just and reasonable" rates for Florida ratepayers. Fla. Stat. § 366.06. In this docket, because FPL and PEF have failed to demonstrate the long-term feasibility of completing these projects, the utilities have as a result failed to demonstrate that the costs for which they seek recovery for 2010 and 2011 are reasonable and/or prudent. As a result, the Commission should deny both FPL and PEF's requested cost recovery for 2010 and 2011, as is it would be imprudent and unreasonable for the Commission to allow the utilities to incur further expenses for these proposed reactors, or to recover those expenses from Florida ratepayers, until PEF and FPL themselves determine if completion of the reactors is feasible.

FEA: FEA positions are based on materials filed by the parties. FEA final positions will be based upon all the evidence in the record and may differ from the preliminary positions stated herein.

STAFF: Staff's positions are preliminary and based on materials filed by the parties and on discovery. The preliminary positions are offered to assist the parties in preparing for the hearing. Staff's final positions will be based upon all the evidence in the record and may differ from the preliminary positions stated herein.

VIII. ISSUES AND POSITIONS

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

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

FPL: Yes. FPL is conducting activities and incurring necessary expenses in the course of actively pursuing the license, permits and approvals necessary to create the option for new nuclear generation consistent with the intent of Section 366.93, F.S., which is to promote electric utility investment in nuclear power plants. Because FPL has received a determination of need for Turkey Point 6 & 7 pursuant to Section 403.519(4), F.S., FPL is entitled to recover all prudently incurred costs including, but not limited to, those associated with siting, design, licensing, and construction. The fact that FPL is not simultaneously involved in each category of activity (i.e., FPL is not currently in the construction phase of the project) does not affect the applicability of Section 366.93, F.S., and the Commission's Nuclear Cost Recovery Rule to FPL's Turkey Point 6 & 7 costs. (Scroggs, Diaz, Reed)

OPC: At this juncture, OPC does not contend that FPL's activities fail to satisfy the definition of the statute such that the Commission should deny FPL's petition to recover costs. OPC reserves the right to modify its position in future proceedings, based on a review of management's decisions and courses of action.

PCS

PHOSPHATE: No position.

FIPUG: FIPUG has not had adequate opportunity to formulate a legal opinion on this issue and will brief it in its post-hearing brief.

SACE: No. FPL's filings in this docket related to Turkey Point Units 6 & 7, as well as public statements made by FPL related to Turkey Point Units 6 & 7, clearly indicate that FPL is only engaged in an attempt at "licensing" a nuclear power plant, and not the "construction" of a nuclear power plant. No final decision to proceed with construction of the Turkey Point Units 6 & 7 has been made.

FEA: No position.

STAFF: No position at this time.

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

PEF: Yes. Section 366.93 of the Florida Statutes, clearly provides that all costs associated with siting, design, licensing, and construction of a nuclear power plant are recoverable. The statute further provides that "costs" which are recoverable by a utility include but are not limited to, "all capital investments, including rate of return, any applicable taxes, and all expenses, including operation and maintenance expenses, related to or resulting from the siting, licensing, design, construction, or operation of the nuclear power plant." See Section 366.93(1)(a). This is an intentionally broadly worded statutory definition encompassing "all costs" for the underlying activities, namely, the "siting, licensing, design construction, or operation of the nuclear power plant." On its face, then, the statute contemplates, and common sense dictates, that a utility will move through these stages concurrently but also in sequence at times over an ultimately unfixed time period -- from siting to ultimate construction. Costs for licensing activities for a nuclear power plant necessarily fall within recoverable costs under the statute whether those costs are incurred in isolation or in concert with costs for other activities for a nuclear power plant and its associated transmission facilities.

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

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

FPL: No position.

OPC: No. The LNP project appears at this time no longer to meet the letter and intent of Section 366.93, Florida Statutes, which allows for advance recovery from customers of projects that will result in the construction of a nuclear power plant. PEF’s unchallenged testimony in this case demonstrates that in contrast to its assertions in the need determination docket, initial internal authorizations and prior years’ testimonies, PEF is reversing course and the Company is no longer actively pursuing the construction of a nuclear power plant nor actively investing in nuclear generation related to the LNP project. Pursuit of a COL alone, with no manifested intent to build a power plant does not meet the test of the statute. While, and to the extent that PEF is in this mode with respect to the LNP project, no further advance recovery should be allowed of costs incurred after the May 1, 2010 announcement that PEF chose the option to suspend all but continuation of the COL pursuit portion of original LNP project plan.

PCS

PHOSPHATE: PCS Phosphate agrees with and adopts the position of the OPC.

FIPUG: FIPUG has not had adequate opportunity to formulate a legal opinion on this issue and will brief it in its post-hearing brief.

SACE: No. PEF’s filings in this docket related to Levy Units 1 & 2 clearly indicate that PEF is only engaged in an attempt at “licensing” a nuclear power plant, and not the “construction” of a nuclear power plant. No final decision to proceed with construction of the Levy Units 1 & 2 has been made.

FEA: No position.

STAFF: No position at this time.

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

PEF: No, it does not. The “risk sharing” mechanism is not defined but it appears what is intended as the incentive for a utility to complete a nuclear power plant project within an undefined, “appropriate” cost threshold is that the utility would not recover all or part of the costs above this threshold and, therefore, share the risk with customers of cost increases above the threshold even if those costs were prudently incurred for the nuclear power plant project. This is inconsistent with and contravenes the express statutory authority for cost recovery for a nuclear power plant project and the regulatory compact inherent in Chapter 366.

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

FPL: No. FPL is entitled to recover *all* its prudently incurred costs pursuant to Sections 403.519(4) and 366.93, F.S., regardless of whether they total to some amount above or below a certain threshold. Additionally, FPL is only required to provide a non-binding cost estimate for nuclear projects during the determination of need and cost recovery processes, not a binding threshold. These two concepts – the ability to recover all prudent costs and the provision for a non-binding cost estimate – are critical elements of the nuclear cost recovery framework established by the Florida Legislature and intended to promote utility investment in nuclear generation. The establishment of a “risk sharing” mechanism would therefore run afoul of both the letter of the law and the intent of the law. Furthermore, the establishment of such a mechanism (even if it were to be permitted by law) would logically result in utilities developing project cost estimates with sufficient contingency to substantially limit the probability of a cost overrun. By doing so, the Commission would risk encouraging utilities to set much higher cost estimates

and budgetary targets for nuclear projects, which is less desirable for customers from a policy perspective. (Jones, Reed)

OPC: Yes. The Commission has broad authority to insure that the purpose and intent of the rule and statute are met in order to protect customers from imprudent expenditures. Neither the statute nor the Rule contain any prohibition on the Commission utilizing its broad authority to keep costs from escalating to dimensions beyond which it would be unfair to require customers to bear all of the risk, especially when the existing projects face significant uncertainty .

The Commission should place interested parties on notice of its intent to develop such a “risk sharing” mechanism in future proceedings, and provide the parties an opportunity to attempt to cooperatively develop and present such a mechanism. A risk sharing mechanism would provide a strong incentive to utilities to control costs because they would have some “skin in the game”—an incentive which is missing at the present. (Jacobs)

PCS

PHOSPHATE: PCS Phosphate agrees with and adopts the position of the OPC.

FIPUG: FIPUG has not had adequate opportunity to formulate a legal opinion on this issue and will brief it in its post-hearing brief.

SACE: The Commission does have such authority in order fulfill its obligation to fix “fair, just and reasonable” rates for Florida ratepayers. Fla. Stat. § 366.06.

The Commission should endeavor to establish a risk-sharing mechanism by which a utility would be responsible for the costs of a project which exceed a cost threshold established by the Commission for the project.

FEA: No position.

STAFF: No position at this time.

ISSUE 3B: **Should any FPL rate case type expense associated with the 2010 Nuclear Cost Recovery Clause hearing be removed?**

PEF: No Position.

FPL: No. Only necessary and appropriate expenses required to support the Turkey Point 6 & 7 and extended power uprate projects are included within FPL's NCRC charges, which should be recovered through the nuclear cost recovery process pursuant to Section 366.93, F.S., and Rule 25-6.0423, F.A.C.

OPC: Yes.

PCS

PHOSPHATE: No position.

FIPUG: Yes. Any rate case type expense associated with the NCRC hearing should be removed.

SACE: Yes.

FEA: No position.

STAFF: No position at this time.

Progress Energy Florida, Inc. – Company Specific Issues

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

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

FPL: No position.

OPC: With respect to the uprate projects, OPC believes there are indications of inadequate management and contracting oversight controls.

PCS

PHOSPHATE: PCS Phosphate agrees with and adopts the position of the OPC.

FIPUG: Agree with OPC.

SACE: Agree with OPC.

FEA: No position.

STAFF: No position at this time.

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

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

FPL: No position.

OPC: No. The Commission should put PEF on notice that its decision related to the timing of expenditures relative to the NRC decision on its yet-to-be- submitted license amendment request (LAR) is still subject to a prudency review based on the facts and circumstances known to the company management at the time they decided to spend customer-provided funds. (Jacobs)

PEF has not demonstrated that costs (company and contractor) related to the preparation of the CR3 EPU LAR are prudent and reasonable. Company documents indicate that excessive and/or duplicative costs have been incurred due to inadequate oversight of the preparation of the LAR.

PCS

PHOSPHATE: PCS Phosphate agrees with and adopts the position of the OPC.

FIPUG: Agree with OPC.

SACE: Agree with OPC.

FEA: No position.

STAFF: No position at this time.

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

PEF: Yes, the Commission should approve what PEF has submitted as its annual detailed analysis of the long-term feasibility of completing the LNP. With the testimony of Jeff Lyash, PEF submitted a detailed analysis setting forth the long term feasibility of completing the LNP, consistent with the requirements of Rule 25-6.0423 and the analysis this Commission approved last year. First, the Company employed a qualitative analysis of the technical and regulatory capability of completing the plants, the risks, and the costs and benefits of completing the Levy nuclear power plants. As part of this analysis, the Company demonstrated that the LNP is feasible from a regulatory and technical perspective. The second step was an updated CPVRR economic analysis. The updated CPVRR indicates that the LNP is economically viable and has the potential to provide PEF and its customers with fuel and environmental cost savings over the life of the project. The Company has demonstrated that the LNP is feasible.
If the Commission does not approve what PEF has submitted as its annual detailed analysis of the long-term feasibility of completing the LNP based on a perceived technical deficiency in PEF's filing, the Commission should specifically identify the nature of its perceived deficiencies in PEF's analysis and permit PEF to re-file with the additional requested information.

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

FPL: No position.

OPC: No. Due to the tenuous nature of the LNP project, the Commission should require additional analysis of the feasibility of the overall project based on concerns raised by all witnesses in this docket.

PCS

PHOSPHATE: PCS Phosphate agrees with and adopts the position of the OPC.

FIPUG: No. Agree with OPC.

SACE: No. PEF has failed to complete a realistic feasibility assessment that properly takes into account important changes in key variables which have adversely affected the long-term feasibility of nuclear reactors, including but not limited to: declining natural gas costs; declining estimates of the cost of carbon; declining demand; ongoing scheduling delays; increased total project costs; and the true impacts of efficiency and renewables. Furthermore, PEF utilizes an approach to

modeling need for generation which systematically biases the results in favor of nuclear construction.

As a result, the Commission should deny cost recovery for PEF's 2010 and 2011 costs.

FEA: No position.

STAFF: No position at this time.

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

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

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

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

FPL: No position.

OPC: PEF has not demonstrated that in choosing its selected option (PEF Option 3), it has evaluated all scenarios associated with the five year delay in the proposed commercial operation date of what remains of the LNP Project. PEF has not adequately demonstrated that the potential cost exposure of customers in the event of project cancellation has been adequately considered or mitigated. The Commission should require PEF to demonstrate that it has chosen the option for cost recovery purposes that best serves the customers who are making unprecedented advance payment for a project that may never be completed.

The Commission should consider deferring cost recovery or placing cost recovery of costs above the total costs of cancellation (PEF's Option 1) at risk pending further analysis of this likelihood of continuing with the LNP. (Jacobs)

PCS

PHOSPHATE: Based on expected nuclear cost recovery clause and base rate impacts, PEF has not established that continuing to pursue the COL is reasonable absent definitive agreements for joint ownership participation. In all other respects PCS Phosphate agrees with and adopts the position of the OPC.

FIPUG: No. The Commission should require PEF to evaluate all reasonable scenarios and select the most cost-effective and prudent course of action. PEF has not met its burden to demonstrate that its current course of action is reasonable. The Commission should consider deferring cost recovery until it is determined if the LNP will go forward to completion.

SACE: No. It is unreasonable for PEF to continue to incur additional costs on the licensing of the proposed Levy Units 1 & 2, and pass these costs on to ratepayers, with no real demonstrated commitment to actually constructing the proposed reactors and with no demonstration of the long-term feasibility of completing the reactors.

As a result, the Commission should deny cost recovery for PEF's 2010 and 2011 costs as these costs are not being reasonably incurred.

FEA: No position.

STAFF: No position at this time.

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

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

FPL: No position.

OPC: No. The Commission should require PEF to submit a feasibility analysis that evaluates the project based on likely NRC-approved power levels.

PCS
PHOSPHATE: No. Agree with OPC.

FIPUG: No. Agree with OPC.

SACE: Agree with OPC.

FEA: No position.

STAFF: No position at this time.

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

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

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

FPL: No position.

OPC: PEF has not adequately explained and justified a material variance in total CR3 EPU project costs. PEF has not met the requirements of Rule 25-6.0423(8)(D), which requires annual variance explanations comparing current and prior period to the most recent projections. By netting unrelated accounting changes against actual significant cost escalations, PEF has not meaningfully explained and justified the cost increases. The Commission should not allow additional EPU cost recovery absent justification for the significant project cost escalation shown on Bates No. 10NC-OPCPOD1-40-000522-000523.

Additionally, PEF has not demonstrated that costs (company and contractor) related to the preparation of the CR3 EPU LAR are prudent and reasonable. Company documents indicate that excessive and/or duplicative costs have been incurred due to inadequate oversight of the preparation of the LAR.

PCS

PHOSPHATE: Agree with OPC.

FIPUG: Agree with OPC.

SACE: Agree with OPC.

FEA: No position.

STAFF: No position at this time.

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

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

O&M Costs (System) \$1,234,649; (Jurisdictional, net of joint owners) \$1,109,484.
Carrying Costs \$7,557,070 and a base revenue requirement of negative \$746,776.

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

FPL: No position.

OPC: No position pending resolution of other issues.

PCS

PHOSPHATE: No position pending resolution of other issues.

FIPUG: This issue will depend on the resolution of the other PEF issues.

SACE: No position pending resolution of other PEF issues.

FEA: No position.

STAFF: No position at this time.

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

PEF: Capital Costs (System) \$67,828,699; (Jurisdictional, net of joint owners) \$52,297,867.
O&M Costs (System) \$481,102; (Jurisdictional, net of joint owners) \$423,093.
Carrying Costs \$10,023,829 and a base revenue requirement of \$3,424,764. (Foster, Franke).

FPL: No position.

OPC: No position pending resolution of other issues.

PCS

PHOSPHATE: No position pending resolution of other issues.

FIPUG: This issue will depend on the resolution of the other PEF issues.

SACE: No position pending resolution of other PEF issues.

FEA: No position.

STAFF: No position at this time.

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

PEF: Capital Costs (System) *****; (Jurisdictional) \$255,963,530.
O&M Costs (System) \$4,500,975; (Jurisdictional) \$4,020,056.
Carrying Costs \$36,124,710 and a base revenue requirements of \$7,619.
The net amount of \$4,192,819 should be included in setting the allowed 2011 NCRC recovery.

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

FPL: No position.

OPC: PEF has not demonstrated that all the costs related to its non-LNP transmission needs have been appropriately removed from requested cost recovery in this docket. Furthermore, any costs that were incurred for a project or projects such as, but not limited to, Central Florida South substation, 230KV step down, or non-LNP NERC requirements should be refunded to customers.

PCS

PHOSPHATE: PCS Phosphate agrees with and adopts the position of the OPC.

FIPUG: Agree with OPC.

SACE: Agree with OPC.

FEA: No position.

STAFF: No position at this time.

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

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

The Commission should also approve an estimated 2010 LNP project true-up amount of \$8,121,477 to be included in setting the allowed 2011 NCRC recovery. The 2010 variance is the sum of an under-projection of Preconstruction costs of \$11,835,352, plus an over-projection of O&M expenses of \$745,625 plus an over-projection of carrying charges of \$2,968,249. (Foster, Karp, Hardison).

FPL: No position.

OPC: Pending additional analysis and justification pursuant to Issue 7, the Commission should defer recovery of a confidential amount of excess dollars related to the 2010 costs that will be incurred greater than the Option 1 costs.

PCS

PHOSPHATE: PCS Phosphate agrees with and adopts the position of the OPC.

FIPUG: Agree with OPC.

SACE: None. PEF has not demonstrated that completion of the Levy Units 1 & 2 is feasible in the long-term as required by Rule 25-6.0423(5)(c)5, F.A.C., therefore no such costs could be reasonably estimated and/or incurred.

FEA: No position.

STAFF: No position at this time.

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

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

FPL: No position.

OPC: Pending additional analysis and justification pursuant to Issue 7, the Commission should defer recovery of a confidential amount of excess dollars related to the 2011 costs that will be incurred greater than the Option 1 costs.

PCS PHOSPHATE: PCS Phosphate agrees with and adopts the position of the OPC.

FIPUG: Agree with OPC.

SACE: None. PEF has not demonstrated that completion of the Levy Units 1 & 2 is feasible in the long-term as required by Rule 25-6.0423(5)(c)5, F.A.C., therefore no such costs could be reasonably estimated and/or incurred.

FEA: No position.

STAFF: No position at this time.

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

PEF: The total jurisdictional amount to be included in establishing PEF's 2011 Capacity Cost Recovery Clause factor should be \$163,580,660 (before revenue tax multiplier). Please see Appendix A for a breakout of these costs. (Foster).

Issue 15 Detailed Support

Appendix A

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

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

Proposed NCRC Revenue Requirements for 2011 CCRC	163,580,660
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FPL: No position.

OPC: No position pending resolution of Issues 2 and 7.

PCS

PHOSPHATE: No position pending resolution of other issues.

FIPUG: This issue will depend on the resolution of the other PEF issues.

SACE: No position pending resolution of other PEF issues.

FEA: No position.

STAFF: No position at this time.

Florida Power & Light Company – Company Specific Issues

ISSUE 16: Should the Commission find that for the year 2009, FPL's accounting and costs oversight controls were reasonable and prudent for the Turkey Point Units 6 & 7 project and the Extended Power Uprate project?

PEF: No position.

FPL: Yes. FPL relies on its comprehensive corporate and overlapping business unit controls for recording and reporting transactions associated with Turkey Point 6 & 7 and the Extended Power Uprate project. These comprehensive and overlapping controls include FPL's Accounting Policies and Procedures; financial systems and related controls including FPL's general ledger and construction asset tracking system; FPL's annual budgeting and planning process and reporting and monitoring of plan costs to actual costs incurred; and Business Unit specific controls and processes. The project internal controls are comprised of various financial systems, department procedures, work/desktop instructions and best practices, providing governance and oversight of project cost and schedule processes. This comprehensive system of controls helps ensure reasonable costs and prudent decision making. (Scroggs, Jones, Powers, Reed)

OPC: For the uprates, OPC believes there are indications of inadequate cost oversight controls.

PCS

PHOSPHATE: No position.

FIPUG: Agree with OPC.

SACE: Agree with OPC.

FEA: No position.

STAFF: No position at this time.

ISSUE 17: Should the Commission find that for the year 2009, FPL's project management, contracting, and oversight controls were reasonable and prudent for the Turkey Point Units 6 & 7 project and the Extended Power Uprate project?

PEF: No position.

FPL: Yes. FPL's practices include a series of documented, overlapping processes that ensure the Company's system of internal controls is being implemented within the projects and ensure appropriate senior level oversight. The project management, cost estimation, and risk management attributes of FPL are highly developed, well documented, and adhered to by the project teams. FPL's management decisions with respect to both the Turkey Point 6 & 7 project and the EPU project are the product of properly qualified, well-informed FPL management following appropriate procedures and internal controls. (Scroggs, Jones, Reed)

OPC: With respect to the uprate projects, OPC believes there are indications of inadequate management and contracting oversight controls.

PCS

PHOSPHATE: No position.

FIPUG: Agree with OPC.

SACE: Agree with OPC.

FEA: No position.

STAFF: No position at this time.

ISSUE 18: **Should the Commission approve what FPL has submitted as its annual detailed analysis of the long-term feasibility of completing the Turkey Point 6 & 7 project, as provided for in Rule 25-6.0423, F.A.C? If not, what action, if any, should the Commission take?**

PEF: No position.

FPL: Yes. FPL used three different fuel cost forecasts and three environmental compliance cost forecasts for several types of emissions (SO₂, NO_x, and CO₂) in its analyses. This allows a number of combinations of fuel and environmental compliance costs to serve as possible future scenarios with which to view the economics of Turkey Point 6 & 7. FPL annually updates these fuel and environmental compliance cost projections, and updates a number of other assumptions such as the load forecast, for its economic analyses. Based on this analysis, Turkey Point 6 & 7 is projected to be a solidly cost-effective addition for FPL's customers in seven out of seven "base case" scenarios. Turkey Point 6 & 7 would also be cost effective in six out of seven sensitivity scenarios, which were run to examine the potential for higher financing costs. Additionally, the substantial benefits of Turkey Point 6 & 7 in terms of fuel diversity, reduced fossil fuel usage, and system emission reductions are evident. The results of the

analysis fully support the feasibility of continuing the Turkey Point 6 & 7 project.
(Scroggs, Reed, Sim)

OPC: No position.

PCS
PHOSPHATE: No position.

FIPUG: No.

SACE: No. FPL has failed to complete a realistic feasibility assessment that properly takes into account important changes in key variables which have adversely affected the long-term feasibility of nuclear reactors, including but not limited to: declining natural gas costs; declining estimates of the cost of carbon; declining demand; ongoing scheduling delays; increased total project costs; and the true impact of efficiency and renewables. Furthermore, FPL utilizes an approach to modeling need for generation which systematically biases the results in favor of nuclear construction.

As a result, the Commission should deny cost recovery for PEF's 2010 and 2011 costs.

FEA: No position.

STAFF: No position at this time.

ISSUE 19: **Is FPL's decision to continue pursuing a Combined Operating License from the Nuclear Regulatory Commission for Turkey Point Units 6 & 7 reasonable? If not, what action, if any, should the Commission take?**

PEF: No position.

FPL: Yes. FPL's decision to continue pursuing a Combined Operating License is reasonable because obtaining a license will provide FPL an option to build Turkey Point 6 & 7 that can be exercised during a period of 20 years. Pursuing a COL and obtaining this option is of great value to FPL's customers, because FPL's feasibility analysis in this proceeding shows that exercising the option and constructing Turkey Point 6 & 7 is projected to save customers tens of billions of dollars in fuel and environmental costs in a wide range of potential future fuel and environmental compliance cost scenarios. This is in addition to greatly reducing reliance on fossil fuels and improving fuel diversity consistent with the direction of the Florida Legislature, as well as reducing environmental emissions and supporting electric system reliability with base load generating capacity. While providing additional flexibility during uncertain times, obtaining a COL does not

prevent the Company from pursuing other resource strategies should such strategies prove favorable to FPL's customers. Accordingly, continued pursuit of the COL is reasonable and consistent with the prudent, step-wise management approach that FPL has taken for Turkey Point 6 & 7 since its inception. (Scroggs, Diaz, Jacobs, Reed)

OPC: No position.

PCS

PHOSPHATE: No position.

FIPUG: No.

SACE: No. It is unreasonable for FPL to continue to incur additional costs on the licensing of the proposed Turkey Point Units 6 & 7, and pass these costs on to its ratepayers, with no real demonstrated commitment to actually constructing the reactors and with no demonstration of the long-term feasibility of completing the reactors.

As a result, the Commission should deny FPL's requested 2010 and 2011 cost recovery as these costs are not being reasonably incurred.

FEA: No position.

STAFF: No position at this time.

ISSUE 20: **Should the Commission approve what FPL has submitted as its annual detailed analysis of the long-term feasibility of completing the Extended Power Uprate project, as provided for in Rule 25-6.0423, F.A.C? If not, what action, if any, should the Commission take?**

PEF: No position.

FPL: Yes. FPL used three different fuel cost forecasts and three environmental compliance cost forecasts for several types of emissions (SO₂, NO_x, and CO₂) in its analyses. This allows a number of combinations of fuel and environmental compliance costs to serve as possible future scenarios with which to view the economics of the EPU project. Additionally, FPL annually updates these fuel and environmental compliance cost projections, and updates a number of other assumptions such as the load forecast, for its economic analyses. Based on this analysis, the EPU Project is still projected to be a solidly cost-effective addition for FPL's customers in seven out of seven "base case" scenarios. The EPU project would also be cost effective in seven out of seven sensitivity scenarios that were run to examine the potential for higher financing costs, seven out of seven

sensitivity scenarios that were run to examine an EPU project output of 399 MW (as opposed to the currently estimated 450 MW), and six out of seven sensitivity scenarios that combined higher financing costs and a 399 MW output. Additionally, the substantial benefits of the EPU project in terms of fuel diversity, reduced fossil fuel usage, and system emission reductions are evident. The results of the analysis fully support the feasibility of continuing the EPU Project. (Jones, Reed, Sim)

OPC: No. The feasibility methodology employed by FPL to test the ongoing economic feasibility of FPL's uprate projects excludes amounts already spent from consideration, treating them instead as "sunk costs." This approach is appropriate in a situation in which the estimated cost of completion is not subject to substantial variations over time. It is inappropriate in a situation in which the estimated cost of completion continuously and substantially increases, such as is the case with FPL's uprate projects, because it could result in an indication of ongoing economic feasibility even though the project ultimately may not be feasible from an overall cost standpoint. A breakeven analysis similar to the one that FPL applies to the new nuclear unit projects would be more appropriate. (Jacobs)

PCS

PHOSPHATE: No position.

FIPUG: Agree with OPC.

SACE: Agree with OPC.

FEA: No position.

STAFF: No position at this time.

ISSUE 21: **What system and jurisdictional amounts should the Commission approve as FPL's final 2009 prudently incurred costs and final true-up amounts for the Extended Power Uprate project?**

PEF: No position.

FPL: The Commission should approve \$237,677,629 (system) in EPU expenditures and \$498,077 (system) in O&M expenses as FPL's final 2009 prudently incurred costs. The resultant jurisdictional costs, net of joint owner and other adjustments, are \$227,680,201 for EPU expenditures, \$16,459,883 in carrying charges, and \$480,934 in O&M expenses. In addition, 2009 prudently incurred jurisdictional base rate revenue requirements are \$12,802. FPL's 2009 EPU costs are supported

by comprehensive procedures, processes and controls which help ensure that those expenditures were the result of prudent decision making.

The final 2009 true up amount is an over recovery of \$3,837,507 in carrying costs, an over recovery of \$63,533 in O&M expenses and an over recovery of \$70,658 in base rate revenue requirements. The net amount of (\$3,971,698) should be included in setting FPL's 2011 NCRC recovery amount. (Jones, Powers, Reed)

OPC: OPC agrees with the Staff's proposal to conduct a more detailed examination of the costs in a separate docket.

PCS

PHOSPHATE: No position.

FIPUG: Agree with OPC.

SACE: Agree with OPC.

FEA: No position.

STAFF: No position at this time.

ISSUE 22: **What system and jurisdictional amounts should the Commission approve as FPL's reasonable actual/estimated 2010 costs and estimated true-up amounts for the Extended Power Uprate project?**

PEF: No position.

FPL: The Commission should approve \$318,166,769 (system) in EPU expenditures and \$3,210,753 (system) in O&M expenses as FPL's reasonable actual/estimated 2010 costs. The resultant jurisdictional costs, net of joint owner and other adjustments, are \$302,009,710 for EPU expenditures, \$42,352,323 in carrying charges, and \$3,140,969 in O&M expenses. In addition, reasonable jurisdictional base rate revenue requirements are \$2,018,321, with carrying charges of (\$457,762). FPL's 2010 actual/estimated EPU costs are supported by comprehensive procedures, processes and controls which help ensure that these costs are reasonable.

The 2010 true up amount is an under recovery of \$757,736 in carrying costs, under recovery of \$992,986 in O&M expenses, and over recovery of \$14,317,118 in base rate revenue requirements. The net amount of (\$12,566,397) should be included in setting FPL's 2011 NCRC recovery amount. (Jones, Powers, Reed)

OPC: OPC agrees with Staff's proposal to conduct a more detailed examination of the costs in a separate docket.

PCS

PHOSPHATE: No position.

FIPUG: Agree with OPC.

SACE: Agree with OPC.

FEA: No position.

STAFF: No position at this time.

ISSUE 23: **What system and jurisdictional amounts should the Commission approve as FPL's reasonably projected 2011 costs for the Extended Power Uprate project?**

PEF: No position.

FPL: The Commission should approve the amount of \$547,756,895 (system) in EPU expenditures and \$4,161,728 (system) in O&M expenses as FPL's reasonably projected 2011 costs. The resultant jurisdictional costs, net of joint owner and other adjustments, are \$521,701,593 in EPU expenditures, \$49,129,740 in carrying charges, and \$3,917,202 in O&M expenses. In addition, reasonable jurisdictional base rate revenue requirements are \$28,270,391. The total amount of \$81,317,333 should be included in setting FPL's 2011 NCRC recovery amount. FPL's 2011 projected construction expenditures are supported by comprehensive procedures, processes and controls which help ensure that these projected costs are reasonable. (Jones, Powers, Reed)

OPC: No position.

PCS

PHOSPHATE: No position.

FIPUG: This issue will depend on the resolution of the other FPL issues.

SACE: No position.

FEA: No position.

STAFF: No position at this time.

ISSUE 24: What system and jurisdictional amounts should the Commission approve as FPL's final 2009 prudently incurred costs and final true-up amounts for the Turkey Point Units 6 & 7 project?

PEF: No position.

FPL: The Commission should approve \$37,731,525 (system) and \$37,599,045 (jurisdictional) as FPL's final 2009 prudently incurred preconstruction costs, as well as \$857,693 in preconstruction carrying charges and \$373,162 in jurisdictional carrying charges on prior years' unrecovered site selection costs. FPL's 2009 expenditures were supported by comprehensive procedures, processes and controls which help ensure that those expenditures were the result of prudent decision making.

The final 2009 true up amount is an over recovery of \$7,845,423 in pre-construction expenditures and an over recovery of \$2,802,854 in preconstruction carrying charges and on site selection unrecovered costs. The net amount of (\$10,648,277) should be included in FPL's 2011 NCRC recovery amount. (Scroggs, Powers, Reed)

OPC: No position.

PCS

PHOSPHATE: No position.

FIPUG: This issue is dependent upon the outcome of Issues 17 and 18.

SACE: No position.

FEA: No position.

STAFF: No position at this time.

ISSUE 25: What system and jurisdictional amounts should the Commission approve as reasonably estimated 2010 costs and estimated true-up amounts for FPL's Turkey Point Units 6 & 7 project?

PEF: No position.

FPL: The Commission should approve \$42,629,655 (system) and \$42,125,853 (jurisdictional) as FPL's reasonable 2010 actual/estimated preconstruction costs, as well as (\$4,734,785) in preconstruction carrying charges and \$145,965 in jurisdictional carrying charges on prior years' unrecovered site selection costs.

FPL's 2010 actual/estimated expenditures are supported by comprehensive procedures, processes and controls which help ensure that these costs are reasonable.

The 2010 true up amount is an over recovery of \$48,528,272 in pre-construction expenditures and an over recovery of \$5,795,691 in preconstruction carrying charges and on site selection unrecovered costs. The net amount of (\$54,323,963) should be included in FPL's 2011 NCRC recovery amount. (Scroggs, Powers, Reed)

OPC: No position.

PCS
PHOSPHATE: No position.

FIPUG: This issue will depend on the resolution of the other FPL issues.

SACE: None. FPL has not demonstrated that completion of the Turkey Point 6 & 7 project is feasible in the long-term as required by Rule 25-6.0423(5)(c)5, F.A.C., therefore no such costs could be reasonably estimated and/or incurred.

FEA: No position.

STAFF: No position at this time.

ISSUE 26: **What system and jurisdictional amounts should the Commission approve as reasonably projected 2011 costs for FPL's Turkey Point Units 6 & 7 project?**

PEF: No position.

FPL: The Commission should approve \$29,469,475 (system) and \$29,121,201 (jurisdictional) as FPL's reasonable 2011 projected preconstruction costs, as well as \$2,189,194 in preconstruction carrying charges and \$171,052 in carrying charges on prior years' unrecovered site selection costs. The total amount of \$31,481,447 should be included in setting FPL's 2011 NCRC recovery amount. FPL's 2011 projected expenditures are supported by comprehensive procedures, processes and controls which help ensure that these projected costs are reasonable. (Scroggs, Powers, Reed)

OPC: No position.

PCS
PHOSPHATE: No position.

FIPUG: This issue will depend on the resolution of the other FPL issues.

SACE: None. FPL has not demonstrated that completion of the Turkey Point 6 & 7 project is feasible in the long-term as required by Rule 25-6.0423(5)(c)5, F.A.C., therefore no such costs could be reasonably estimated and/or incurred.

FEA: No position.

STAFF: No position at this time.

ISSUE 27: **What is the total jurisdictional amount to be included in establishing FPL's 2011 Capacity Cost Recovery Clause factor?**

PEF: No position.

FPL: The total jurisdictional amount of \$31,288,445 should be included in establishing FPL's 2011 Capacity Cost Recovery Clause factor. This amount consists of carrying charges on site selection costs, pre-construction costs and associated carrying charges for continued development of Turkey Point 6 & 7; and carrying charges on construction costs, O&M costs and base rate revenue requirements, all as provided for in Section 366.93 and the Rule. (Powers)

OPC: The appropriate amount will be a function of the reasonable uprate costs that will be determined in the separate proceeding proposed by Staff.

PCS

PHOSPHATE: No position.

FIPUG: Agree with OPC.

SACE: Agree with OPC.

FEA: No position.

STAFF: No position at this time.

IX. EXHIBIT LIST

PROGRESS ENERGY FLORIDA

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

<u>Witness</u>	<u>Proffered By</u>		<u>Description</u>
Thomas G. Foster	PEF	TGF-1	CONFIDENTIAL - Schedules AE-1 through AE-7B and Appendixes A through E which reflect PEF's retail revenue requirements for the LNP from January 2010 through December 2010 (Sue Hardison and Ken Karp sponsoring portions schedules of AE-4, AE-4A, AE-6, AE-6A, AE-6B, AE-7, AE-7A & AE-7B)
Thomas G. Foster	PEF	TGF-2	CONFIDENTIAL - Schedules P-1 through P-8 and Appendixes A through D, which reflect PEF's projected retail revenue requirements for the LNP for January 2011 through December 2011 (Sue Hardison and Ken Karp sponsoring portions of P4, P-6, P-6A, P-7, P-7A & P-7B)
Thomas G. Foster	PEF	TGF-3	CONFIDENTIAL - Schedule TOR-1 through TOR-7, which reflect the total estimated costs for the LNP project up to the in-service date. (Sue Hardison, Ken Karp sponsoring portions of Schedules TOR-4, TOR-6 (with John Elnitsky) & TOR-6A, and John Elnitsky sponsoring all of Schedule TOR-7)

<u>Witness</u>	<u>Proffered By</u>		<u>Description</u>
Thomas G. Foster	PEF	TGF-4	CONFIDENTIAL - Schedules AE-1 through AE-7B and Appendixes A through E, which reflect PEF's retail revenue requirements for the CR3 Uprate Filing from January 2010 through December 2010 (Jon Franke sponsoring portions of Schedules AE-4, AE-4A, AE-6.3 and Appendix B, and sponsoring all of Schedules AE-6A.3, AE-6B.3, AE-7, AE-7A and AE-7B)
Thomas G. Foster	PEF	TGF-5	CONFIDENTIAL - Schedules P-1 through P-8 and Appendixes A through E, which reflect PEF's projected retail revenue requirements for the Crystal River Unit 3 (CR3) Uprate filing for January 2011 through December 2011 (Jon Franke sponsoring portions of P-4 , P-6.3, P-6.3A, P-7, P-7A & P-7B and portions of Appendixes D & E)
Thomas G. Foster	PEF	TGF-6	Schedules TOR-1 through TOR-7, which reflect the total estimated costs for the CR3 Uprate project up to the in-service date. (Jon Franke sponsoring portions of TOR-6 and all of Schedules TOR-6A and TOR-7)
Gary R. Doughty	PEF	GRD-1	Janus Management technical consulting firm services
Gary R. Doughty	PEF	GRD-2	Resume of Gary R. Doughty

<u>Witness</u>	<u>Proffered By</u>		<u>Description</u>
Gary R. Doughty	PEF	GRD-3	Testimony given in management prudence reviews
Gary R. Doughty	PEF	GRD-4	Outage and major capital project experience
Patricia Galloway	PEF	PDG-1	Curriculum Vitae
Patricia Galloway	PEF	PDG-2	Nuclear Power Plant Experience
Patricia Galloway	PEF	PDG-3	Non-Nuclear Power Plant Experience
Patricia Galloway	PEF	PDG-4	Management Performance and prudence audits, evaluations and assessments of project-specific and corporate risk involving testimony in regulatory proceedings
Patricia Galloway	PEF	PDG-5	Management Performance and prudence audits, evaluations and assessments of project-specific and corporate risk not involving testimony in regulatory proceedings
Jon Franke	PEF	JF-1	Table Summarizing Fuel Savings Comparisons and Options for CR3 Uprate Project
Jon Franke	PEF	JF-2	Table Showing Low-Pressure Turbine Options
John Elnitsky	PEF	JE-1	CONFIDENTIAL – Correspondence between PEF and Shaw & Webster, Inc., April 30, 2009
John Elnitsky	PEF	JE-2	CONFIDENTIAL – SMC Presentation, March 8, 2010

<u>Witness</u>	<u>Proffered By</u>		<u>Description</u>
John Elnitsky	PEF	JE-3	CONFIDENTIAL – Levy Nuclear Project Timeline
John Elnitsky	PEF	JE-4	CONFIDENTIAL – Long Lead Equipment Information
Jeff Lyash	PEF	JL-1	Letters from NRC to PEF, with Status Reports, Docket Nos. 52-029 and 52-030 before the Atomic Safety and Licensing Board
Jeff Lyash	PEF	JL-2	Excerpts of Reports from Credit Rating Agencies
Jeff Lyash	PEF	JL-3	Updated Life-Cycle Net Present Worth (CPVRR) Assessment
Jeff Lyash	PEF	JL-4	Illustrative Example of LNP Bill Impact, showing 2019 and 2021 In-Service Dates
Jeff Lyash	PEF	JL-5	Illustrative Example of LNP and DSM Bill Impact, showing 2019 and 2021 In-Service Dates
Jeff Lyash	PEF	JL-6	CONFIDENTIAL – SMC Presentation, February 15, 2010
Williams R. Jacobs	OPC	WRJ(PEF)-1	Resume of William R. Jacobs
Williams R. Jacobs	OPC	WRJ(PEF)-2	Resumes of James P. McGaughy and Cary Cook
Williams R. Jacobs	OPC	WRJ(PEF)-3	Referenced Documents
Mark Cooper	SACE	MNC-1	Risk Factors Facing Construction of New Nuclear Reactors

<u>Witness</u>	<u>Proffered By</u>		<u>Description</u>
Mark Cooper	SACE	MNC-2	Unrealistic Assumptions Masking the Real Economics of Nuclear Reactors
Mark Cooper	SACE	MNC-3	Increasing Risks Facing Nuclear Reactor Construction Projects
Mark Cooper	SACE	MNC-4	Negative Events in the Nuclear Renaissance
Mark Cooper	SACE	MNC-5	Excelon's View of the Deteriorating Nuclear As a Carbon Abatement Option
Mark Cooper	SACE	MNC-6	Projected Natural Gas Prices Compared to EIA Projections
Mark Cooper	SACE	MNC-7	The Decade of Volatile Natural Gas Prices May Have Been the Exception, Not the Rule
Mark Cooper	SACE	MNC-8	Declining Peak Load Projections (PEF)
Mark Cooper	SACE	MNC-9	Declining Peak Load and Capacity Needs (PEF)
Mark Cooper	SACE	MNC-10	Declining Peak Load Projections (FPL)
Mark Cooper	SACE	MNC-11	Declining Peak Load and Capacity Requirements (FPL)
Mark Cooper	SACE	MNC-12	Projections of Projected Carbon Compliance Costs
Mark Cooper	SACE	MNC-13	Projections of Overnight Construction Costs
Mark Cooper	SACE	MNC-14	Declining Cost of Renewables
Mark Cooper	SACE	MNC-15	Flexible Gas Additions Lower Revenue Requirements

<u>Witness</u>	<u>Proffered By</u>		<u>Description</u>
Mark Cooper	SACE	MNC-16	Cumulative Cost Difference: Flexibility v. Lumpy Treatment of Natural Gas Generation Additions
Mark Cooper	SACE	MNC-17	Nuclear Construction Pressures Capital Requirements
Mark Cooper	SACE	MNC-18	Overnight Costs as a Predictor of Net Savings: FPL
Mark Cooper	SACE	MNC-19	The Risk of Nuclear Reactors in the Eyes of Industry Analysts
Mark Cooper	SACE	MNC-20	Resume of Mark Cooper
Arnold Gunderson	SACE	AG-1	Curriculum Vitae of Arnold Gunderson
Arnold Gunderson	SACE	AG-2	Sun-Sentinel FPL Olivera
Arnold Gunderson	SACE	AG-3	FPL Press Release 01-2010
Arnold Gunderson	SACE	AG-4	NRC to Westinghouse 10-09
Arnold Gunderson	SACE	AG-5	Westinghouse Schedule 6-21-2010
Arnold Gunderson	SACE	AG-6	5-28-2010 FPL –TPN- NRC
Arnold Gunderson	SACE	AG-7	Petition to ACRS re: AP-1000
Will Garrett	STAFF	Staff's Exhibit, #61	PEF's Response to Staff's Sixth Set of Interrogatories (Nos. 20, 21, 22(a)-22(h), 23, 24, and 25)
Will Garrett	STAFF	Staff's Exhibit, #62	Office of Audit and Performance Analysis - Audit of Levy County Units 1&2 Project Costs as of December 31, 2009

<u>Witness</u>	<u>Proffered By</u>		<u>Description</u>
Will Garrett	STAFF	Staff's Exhibit, #63	Office of Audit and Performance Analysis - Audit of Crystal River Unit Three Uprate Project Costs as of December 31, 2009
Will Garrett	STAFF	Staff's Exhibit, #64	PEF's response to Audit of Crystal River Unit Three Uprate Project Costs as of December 31, 2009
Thomas G. Foster	STAFF	Staff's Exhibit, #65	PEF's Response to Staff's Fifth Set of Interrogatories (Nos. 14A, 14B, 15B, 15C, 15F, and 15G)
Thomas G. Foster	STAFF	Staff's Exhibit, #66	PEF's Response to Staff's Fourth Set of Interrogatories (Nos. 10, 12 and 13)
Thomas G. Foster	STAFF	Staff's Exhibit, #67	PEF's Response to Staff's Sixth Set of Interrogatories (Nos. 22(c)-(l), 23, 24(c) and 25)
Jon Franke	STAFF	Staff's Exhibit, #68	PEF's Response to Staff's Third Set of Interrogatories (No. 9)
Jon Franke	STAFF	Staff's Exhibit, #69	PEF's Response to Staff's Fifth Set of Interrogatories (Nos. 15A, 15C, 15D, 15E, 16, 17, 18A, 18B, 19A, 19B, 19C, and 19D)
Jon Franke	STAFF	Staff's Exhibit, #70	PEF's Response to Staff's Sixth Set of Interrogatories (Nos. 20 and 21)
Sue Hardison	STAFF	Staff's Exhibit, #71	PEF's Response to Staff's Second Set of Interrogatories (Nos. 4-6)

<u>Witness</u>	<u>Proffered By</u>		<u>Description</u>
Sue Hardison	STAFF	Staff's Exhibit, #72	PEF's Response to Staff's Fourth Set of Interrogatories (No. 11)
John Elnitsky	STAFF	Staff's Exhibit, #73	PEF's Response to Staff's First Set of Interrogatories (Nos. 1-3)
Jeff Lyash	STAFF	Staff's Exhibit, #74	CONFIDENTIAL – PEF's Response to Staff's Third Set of Interrogatories (Nos. 7-8)
Jeff Lyash	STAFF	Staff's Exhibit, #75	PEF's Response to Staff's Seventh Set of Interrogatories (Nos. 26-28)
Jeff Lyash Thomas G. Foster	STAFF	Staff's Exhibit, #76	PEF's Response to Staff's Eighth Set of Interrogatories (No. 29)
William Coston and Kevin Carpenter	STAFF	CC-1	Review of Progress Energy Florida's Project Management Internal Controls for Nuclear Plant Uprate and Construction Projects
<u>Rebuttal</u>			
Jon Franke	PEF	JF-3	Excerpt of Jacobs direct testimony, pg. 26, in Docket 090009
Jon Franke	PEF	JF-4	Excerpts of Franke rebuttal testimony, pp. 9-12, in Docket 090009
Jon Franke	PEF	JF-5	CONFIDENTIAL - Change Order 23 to Work Authorization No. 84 between PEF and AREVA for the LAR portion of the Work Authorization

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

<u>Witness</u>	<u>Proffered By</u>		<u>Description</u>
John Elnitsky	PEF	JE-9	February 16, 2010 Remarks by President Obama regarding new nuclear generation development
John Elnitsky	PEF	JE-10	Bar Chart of LNP requests for additional information (“RAIs”) received by PEF by month between November 2008 and March 2010
John Elnitsky	PEF	JE-11	CONFIDENTIAL – EPC Agreement and amendments
Jeff Lyash	PEF	JL-7	CONFIDENTIAL – Excerpts of Jacobs testimony in Docket 090009, pp. 6-9, 11, 17
Jeff Lyash	PEF	JL-8	November 19, 2009 Final Order Approving Nuclear Cost Recovery Amounts for Florida Power & Light Company and Progress Energy Florida, Inc., Order No. PSC-09-0783-FOF-EI in Docket No. 090009-EI
Jeff Lyash	PEF	JL-9	CONFIDENTIAL - Excerpt of Jeff Lyash rebuttal testimony in Docket No. 090009-EI, p. 22
Jeff Lyash	PEF	JL-10	Excerpt of Jeff Lyash rebuttal testimony in Docket No. 090009-EI, pp. 15-17

FLORIDA POWER & LIGHT COMPANY

<u>Witness</u>	<u>Proffered By</u>		<u>Description</u>
<u>Direct</u>			
Steven D. Scroggs Winnie Powers	FPL	SDS-1	Appendix II - Nuclear Cost Recovery Turkey Point 6&7 Pre-Construction Costs Nuclear Filing Requirement (NFR's) T-Schedules January -December 2009
Steven D. Scroggs Winnie Powers	FPL	SDS-2	Appendix III - Nuclear Cost Recovery Turkey Point 6&7 Site Selection Costs Nuclear Filing Requirements (NFR's) T-Schedules January 2009 – December 2009
Steven D. Scroggs	FPL	SDS-3	Turkey Point 6&7 Licenses, Permits and Approvals
Steven D. Scroggs	FPL	SDS-4	Turkey Point 6&7 Procedures and Work Instructions
Steven D. Scroggs	FPL	SDS-5	Turkey Point 6&7 Reports
Steven D. Scroggs	FPL	SDS-6	Turkey Point 6&7 Project Instructions and Forms List
Steven D. Scroggs	FPL	SDS-7	2009 True-Up Costs Summary Tables
Steven D. Scroggs	FPL	SDS-8	Project Memorandum - LWA Withdrawal
Steven D. Scroggs Winnie Powers	FPL	SDS-9	Appendix II – Nuclear Cost Recovery Turkey Point 6&7 Pre-Construction Costs Nuclear Filing Requirements (NFR's) AE-Schedules Actual/Estimate) P-Schedules (Projections) TOR-Schedules (True-up to Original) December 2010 and 2011

<u>Witness</u>	<u>Proffered By</u>		<u>Description</u>
Steven D. Scroggs Winnie Powers	FPL	SDS-10	Appendix III - Nuclear Cost Recovery Turkey Point 6&7 Site Selection Nuclear Filing Requirements (NFR's) AE-Schedules (Actual/Estimate) P-Schedules (Projections) TOR-Schedules (True-up to Original) December 2010 and 2011
Steven D. Scroggs	FPL	SDS-11	2010 and 2011 Cost Summary Tables
Steven D. Scroggs	FPL	SDS-12	2010 Project Schedule Revision Memorandum
Steven D. Scroggs	FPL	SDS-13	Project Schedule and Milestones
Steven D. Scroggs	FPL	SDS-14	Capital Cost Estimate Memorandum
Steven D. Scroggs	FPL	SDS-15	Cost Estimate Comparison
Steven D. Scroggs	FPL	SDS-16	Forging Reservation Agreement
Nils J. Diaz	FPL	NJD-1	Resume of Nils J. Diaz
Nils J. Diaz	FPL	NJD-2	New NRC Combined Licensing Process
Nils J. Diaz	FPL	NJD-3	New Reactor Licensing Applications
Nils J. Diaz	FPL	NJD-4	Nuclear Power Plant Technology Evolution
Terry O. Jones Winnie Powers	FPL	TOJ-1	Appendix I - Nuclear Cost Recovery Extended Power Uprate Project Nuclear Filing Requirements (NFR's) T-Schedules January - December 2009
Terry O. Jones	FPL	TOJ-2	EPU Organization Chart

<u>Witness</u>	<u>Proffered By</u>		<u>Description</u>
Terry O. Jones	FPL	TOJ-3	EPU Instructions, EPPI Index
Terry O. Jones	FPL	TOJ-4	EPU Project Reports
Terry O. Jones	FPL	TOJ-5	Low Pressure Turbine Rotor Forging
Terry O. Jones	FPL	TOJ-6	Low Pressure Turbine Rotors
Terry O. Jones	FPL	TOJ-7	Low Pressure Turbine Rotor Rings
Terry O. Jones	FPL	TOJ-8	Low Pressure Turbine Rotor Ring Testing
Terry O. Jones	FPL	TOJ-9	Plant Change or Modification Status
Terry O. Jones	FPL	TOJ-10	EPU Project Schedule
Terry O. Jones	FPL	TOJ-11	2009 Construction Costs
Terry O. Jones	FPL	TOJ-12	EPU Equipment List
Terry O. Jones	FPL	TOJ-13	PWR Basic Nuclear Steam Cycle
Terry O. Jones Winnie Powers	FPL	TOJ-14	Appendix I - Nuclear Cost Recovery Extended Power Update Project Construction Costs Nuclear Filing Requirements (NFR's) AE-Schedules (Actual/Estimate) P-Schedules (Projections) TOR-Schedules (True-up to Original) December 2010 and 2011
Terry O. Jones	FPL	TOJ-15	EPU Project Schedule
Terry O. Jones	FPL	TOJ-16	St. Lucie Main Generator Rotor
Terry O. Jones	FPL	TOJ-17	Unloading Generator Rotor

<u>Witness</u>	<u>Proffered By</u>		<u>Description</u>
Terry O. Jones	FPL	TOJ-18	2010 EPU Work Activities
Terry O. Jones	FPL	TOJ-19	2010 EPU Actual Estimated Costs
Terry O. Jones	FPL	TOJ-20	2011 EPU Work Activities
Terry O. Jones	FPL	TOJ-21	2011 EPU Projected Costs
Winnie Powers	FPL	WP-1	Revenue Requirements for 2009
Winnie Powers	FPL	WP-2	2009 Costs for Prudence Determination
Winnie Powers	FPL	WP-3	Base Rate Revenue Requirements
Winnie Powers	FPL	WP-4	Incremental Labor Guidelines
Winnie Powers	FPL	WP-5	Costs Presented in Docket #100009-EI
Winnie Powers	FPL	WP-6	Base Rate Revenue Requirement
Winnie Powers	FPL	WP-7	Revised Exhibits
Steven R. Sim	FPL	SRS-1	Summary of Results from FPL's 2010 Feasibility Analyses of the Nuclear Uprates and Turkey Point 6&7 Projects (Plus Results from Additional Analyses)
Steven R. Sim	FPL	SRS-2	Comparison of Key Assumptions Utilized in 2009 and 2010 Economic Analyses of FPL Nuclear Projects: Projected Fuel Costs (Medium Fuel Cost Forecast)

<u>Witness</u>	<u>Proffered By</u>		<u>Description</u>
Steven R. Sim	FPL	SRS-3	Comparison of Key Assumptions Utilized in the 2009 and 2010 Economic Analyses of FPL Nuclear Projects: Projected Environment Compliance Costs (Env II Forecast)
Steven R. Sim	FPL	SRS-4	Comparison of Key Assumptions Utilized in the 2009 and 2010 Economic Analyses of FPL Nuclear Projects: Summer Peak Demand Load Forecast
Steven R. Sim	FPL	SRS-5	Comparison of Key Assumptions Utilized in the 2009 and 2010 Economic Analyses of FPL Nuclear Projects: Other Assumptions
Steven R. Sim	FPL	SRS-6	The Two Resource Plans Utilized in the 2010 Feasibility Analyses of the Nuclear Uprates
Steven R. Sim	FPL	SRS-7	2010 Feasibility Analyses Results for the Nuclear Uprates: Total Costs and Total Cost Differentials for All Fuel and Environmental Compliance Cost Scenarios in 2010
Steven R. Sim	FPL	SRS-8	2010 Feasibility Analyses Results for the Nuclear Uprates: Total Costs and Total Cost Differentials for All Fuel and Environmental Compliance Cost Scenarios in 2010, Sensitivity Analyses Assuming 11.75% ROE

<u>Witness</u>	<u>Proffered By</u>		<u>Description</u>
Steven R. Sim	FPL	SRS-9	The Two Resource Plans Utilized in the 2010 Feasibility Analyses of Turkey Point 6&7
Steven R. Sim	FPL	SRS-10	2010 Feasibility Analyses Results for Turkey Point 6 & 7: Total Costs, Total Cost Differentials, and Breakeven Costs for All Fuel and Environmental Compliance Cost Scenarios in 2010
Steven R. Sim	FPL	SRS-11	2010 Feasibility Analysis Results for Turkey Point 6 & 7: Total Costs, Total Cost Differentials, and Breakeven Costs for All Fuel and Environmental Compliance Cost Scenarios in 2010, Sensitivity Analyses Assuming 11.75% ROE.
John J. Reed	FPL	JJR-1	Resume of John J. Reed
John J. Reed	FPL	JJR-2	Testimony of John J. Reed
John J. Reed	FPL	JJR-3	Price of Gas at the Henry Hub
John J. Reed	FPL	JJR-4	Total Production Cost of Electricity 1995-2008
John J. Reed	FPL	JJR-5	EPU Projects Meetings
John J. Reed	FPL	JJR-6	PTN 6&7 Organizational Chart
John J. Reed	FPL	JJR-7	Concentric Observations & FPL's Responses
John J. Reed	FPL	JJR-8	Review of New Nuclear Cost Estimates
Williams R. Jacobs	OPC	WRJ(FPL)-	Resume of William R. Jacobs

<u>Witness</u>	<u>Proffered By</u>		<u>Description</u>
Mark Cooper	SACE	MNC-1	Risk Factors Facing Construction of New Nuclear Reactors
Mark Cooper	SACE	MNC-2	Unrealistic Assumptions Masking the Real Economics of Nuclear Reactors
Mark Cooper	SACE	MNC-3	Increasing Risks Facing Nuclear Reactor Construction Projects
Mark Cooper	SACE	MNC-4	Negative Events in the Nuclear Renaissance
Mark Cooper	SACE	MNC-5	Excelon's View of the Deteriorating Nuclear As a Carbon Abatement Option
Mark Cooper	SACE	MNC-6	Projected Natural Gas Prices Compared to EIA Projections
Mark Cooper	SACE	MNC-7	The Decade of Volatile Natural Gas Prices May Have Been the Exception, Not the Rule
Mark Cooper	SACE	MNC-8	Declining Peak Load Projections (PEF)
Mark Cooper	SACE	MNC-9	Declining Peak Load and Capacity Needs (PEF)
Mark Cooper	SACE	MNC-10	Declining Peak Load Projections (FPL)
Mark Cooper	SACE	MNC-11	Declining Peak Load and Capacity Requirements (FPL)
Mark Cooper	SACE	MNC-12	Projections of Projected Carbon Compliance Costs
Mark Cooper	SACE	MNC-13	Projections of Overnight Construction Costs
Mark Cooper	SACE	MNC-14	Declining Cost of Renewables

<u>Witness</u>	<u>Proffered By</u>		<u>Description</u>
Mark Cooper	SACE	MNC-15	Flexible Gas Additions Lower Revenue Requirements
Mark Cooper	SACE	MNC-16	Cumulative Cost Difference: Flexibility v. Lumpy Treatment of Natural Gas Generation Additions
Mark Cooper	SACE	MNC-17	Nuclear Construction Pressures Capital Requirements
Mark Cooper	SACE	MNC-18	Overnight Costs as a Predictor of Net Savings: FPL
Mark Cooper	SACE	MNC-19	The Risk of Nuclear Reactors in the Eyes of Industry Analysts
Mark Cooper	SACE	MNC-20	Resume of Mark Cooper
Arnold Gunderson	SACE	AG-1	Curriculum Vitae of Arnold Gundersen
Arnold Gunderson	SACE	AG-2	Sun-Sentinel FPL Olivera
Arnold Gunderson	SACE	AG-3	FPL Press Release 01-2010
Arnold Gunderson	SACE	AG-4	NRC to Westinghouse 10-09
Arnold Gunderson	SACE	AG-5	Westinghouse Schedule 6-21-2010
Arnold Gunderson	SACE	AG-6	5-28-2010 FPL –TPN- NRC
Arnold Gunderson	SACE	AG-7	Petition to ACRS re: AP-1000
Steven D. Scroggs	STAFF	Staff's Exhibit, #164	FPL's Response to Staff's First Set of Interrogatories (Nos. 2 and 3)
Steven D. Scroggs	STAFF	Staff's Exhibit, #165	FPL's Response to Staff's Second Set of Interrogatories (Nos. 4-6)

<u>Witness</u>	<u>Proffered By</u>		<u>Description</u>
Steven D. Scroggs	STAFF	Staff's Exhibit, #166	FPL's Response to Staff's Third Set of Interrogatories (No. 11)
Steven D. Scroogs	STAFF	Staff's Exhibit, #167	CONFIDENTIAL –FPL's Response to Staff's Seventh Set of Interrogatories (No. 36)
Terry O. Jones	STAFF	Staff's Exhibit, #168	FPL's Response to Staff's Third Set of Interrogatories (Nos. 7-10)
Terry O. Jones	STAFF	Staff's Exhibit, #169	FPL's Response to Staff's Fourth Set of Interrogatories (No. 14)
Terry O. Jones	STAFF	Staff's Exhibit, #170	FPL's Response to Staff's Fifth Set of Interrogatories (Nos. 15-18)
Terry O. Jones	STAFF	Staff's Exhibit, #171	CONFIDENTIAL - FPL's Response to Staff's Seventh Set of Interrogatories (Nos. 20-29, 31-35, and 37-38) and NON-CONFIDENTIAL – (Nos. 39-44)
Winnie Powers	STAFF	Staff's Exhibit, #172	FPL's Response to Staff's Fourth Set of Interrogatories (Nos. 12 and 13)
Winnie Powers	STAFF	Staff's Exhibit, #173	Audit of Turkey Point Units 6&7 Project Costs as of December 31, 2009
Winnie Powers	STAFF	Staff's Exhibit, #174	Audit of Nuclear Uprate Project Costs as of December 31, 2009
Steven R. Sim	STAFF	Staff's Exhibit, #175	FPL's Response to Staff's Sixth Set of Interrogatories (No. 19)
John Reed	STAFF	Staff's Exhibit, #176	FPL's Response to Staff's First Set of Interrogatories (No. 1)

<u>Witness</u>	<u>Proffered By</u>		<u>Description</u>
John Reed	STAFF	Staff's Exhibit, #177	CONFIDENTIAL - FPL's Response to Staff's Seventh Set of Interrogatories (No. 30)
Lynn Fisher and David Rich	STAFF	FR-1	Review of Florida Power & Light's Project Management Internal Controls for Nuclear Plant Uprate and Construction Projects
<u>Rebuttal</u>			
Steven D. Scroggs	FPL	SDS-17	Assessment of Risk Categories
Steven D. Scroggs	FPL	SDS-18	Facts
Terry O. Jones	FPL	TOJ-22	Examples of EPU Scope Changes
Steven R. Sim	FPL	SRS-12	Scenario Analysis of EPU Project Using Witness Jacobs' "What if" Cost Assumptions
Steven R. Sim	FPL	SRS-13	Transcript of Dr. Jacobs' Panel Testimony
Steven R. Sim	FPL	SRS-14	Screening Curve Analysis Steven R. Sim testimony in Docket No. 080707-EG
Steven R. Sim	FPL	SRS-15	Comparison of Key Assumptions Utilized in the 2009 and 2010 Economic Analyses of FPL Nuclear Projects: Summer Peak Demand Load Forecast (Expanded)
Steven R. Sim	FPL	SRS-16	SACE's Inconsistency Regarding CO ₂ Costs
John J. Reed	FPL	JJR-9	The Contract Price/ Owner Contingency Dynamic

Parties and Staff reserve the right to identify additional exhibits for the purpose of cross-examination.

X. PROPOSED STIPULATIONS

The issues identified below are proposed Category II stipulations, among FPL, OPC, SACE and FIPUG. Proposed Category II stipulations by issue are as follows:

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

Proposed
Stipulation: FPL, OPC and FIPUG stipulate, and SACE does not object, to the deferral of this issue until the 2011 nuclear cost recovery cycle.

ISSUE 3B: Should any FPL rate case type expense associated with the 2010 NCRC hearing for FPL be removed?

Proposed
Stipulation: FPL will request deferral of this issue until the 2011 nuclear cost recovery cycle, OPC authorizes FPL to represent in its request that OPC does not object to deferral of this issue, and SACE and FIPUG do not object.

ISSUE 16: Should the Commission find that for the year 2009, FPL's accounting and costs oversight controls were reasonable and prudent for the Turkey Point Units 6 & 7 project and the Extended Power Uprate project?

Proposed
Stipulation: FPL, OPC and FIPUG stipulate, and SACE does not object, to the deferral of this issue until the 2011 nuclear cost recovery cycle.

ISSUE 17: Should the Commission find that for the year 2009, FPL's project management, contracting, and oversight controls were reasonable and prudent for the Turkey Point Units 6 & 7 project and the Extended Power Uprate project?

Proposed
Stipulation: FPL, OPC and FIPUG stipulate, and SACE does not object, to the deferral of this issue until the 2011 nuclear cost recovery cycle.

ISSUE 18: Should the Commission approve what FPL has submitted as its annual detailed analysis of the long-term feasibility of completing the Turkey Point 6 & 7 project, as provided for in Rule 25-6.0423, F.A.C? If not, what action, if any, should the Commission take?

Proposed

Stipulation: FPL, OPC and FIPUG stipulate, and SACE does not object, to the deferral of this issue until the 2011 nuclear cost recovery cycle.

ISSUE 19: Is FPL's decision to continue pursuing a Combined Operating License from the Nuclear Regulatory Commission for Turkey Point Units 6 & 7 reasonable? If not, what action, if any, should the Commission take?

Proposed

Stipulation: FPL, OPC and FIPUG stipulate, and SACE does not object, to the deferral of this issue until the 2011 nuclear cost recovery cycle.

ISSUE 20: Should the Commission approve what FPL has submitted as its annual detailed analysis of the long-term feasibility of completing the Extended Power Uprate project, as provided for in Rule 25-6.0423, F.A.C? If not, what action, if any, should the Commission take?

Proposed

Stipulation: FPL, OPC and FIPUG stipulate, and SACE does not object, to the deferral of this issue until the 2011 nuclear cost recovery cycle.

ISSUE 21: What system and jurisdictional amounts should the Commission approve as FPL's final 2009 prudently incurred costs and final true-up amounts for the Extended Power Uprate project?

Proposed

Stipulation: Subject to the stipulation set forth below, the Commission should approve \$237,677,629 (system) in EPU expenditures and \$498,077 (system) in O&M expenses as FPL's 2009 costs. The resultant jurisdictional costs, net of joint owner and other adjustments, are \$227,680,201 for EPU expenditures, \$16,459,883 in carrying charges, and \$480,934 in O&M expenses. In addition, 2009 jurisdictional base rate revenue requirements are \$12,802.

For purposes of the Capacity Cost Recovery Clause ("CCRC"), the final 2009 true up amount is an over recovery of \$3,837,507 in carrying costs, an over recovery of \$63,533 in O&M expenses and an over recovery of \$70,658 in base

rate revenue requirements. The net amount of (\$3,971,698) should be included in setting FPL's 2011 NCRC recovery factor.

FPL, OPC and FIPUG stipulate, and SACE does not object, that the determination of FPL's final 2009 prudently incurred costs should be deferred until the 2011 nuclear cost recovery cycle, and if any such costs are found to have been imprudently incurred such finding will be reflected as a reduction in the nuclear cost recovery clause factor determined in the 2011 proceeding. Accordingly, it is agreed that approval of the collection of the amounts presented by FPL is preliminary in nature and those amounts are subject to refund in the form of a true-up based on the outcome of the deferred consideration.

ISSUE 22: What system and jurisdictional amounts should the Commission approve as FPL's reasonable actual/estimated 2010 costs and estimated true-up amounts for the Extended Power Uprate project?

Proposed

Stipulation: Subject to the stipulation set forth in this issue below, the Commission should approve \$318,166,769 (system) in EPU expenditures and \$3,210,753 (system) in O&M expenses as FPL's actual/estimated 2010 costs. The resultant jurisdictional costs, net of joint owner and other adjustments, are \$302,009,710 for EPU expenditures, \$42,352,323 in carrying charges, and \$3,140,969 in O&M expenses. In addition, jurisdictional base rate revenue requirements are \$2,018,321, with carrying charges of (\$457,762).

The 2010 true up amount is an under recovery of \$757,736 in carrying costs, under recovery of \$992,986 in O&M expenses, and over recovery of \$14,317,118 in base rate revenue requirements. The net amount of (\$12,566,397) should be included in setting FPL's 2011 NCRC recovery factor.

FPL, OPC and FIPUG stipulate, and SACE does not object, that the determination of FPL's reasonable actual/estimated 2010 costs should be deferred until the 2011 nuclear cost recovery cycle, and if any such costs are found to be unreasonable that such finding will be reflected as a reduction in the nuclear cost recovery clause factor determined in the 2011 proceeding. Accordingly, it is agreed that approval of the collection of the amounts presented by FPL is preliminary in nature and those amounts are subject to refund in the form of a true-up based on the outcome of the deferred consideration.

ISSUE 23: What system and jurisdictional amounts should the Commission approve as FPL's reasonably projected 2011 costs for the Extended Power Uprate project?

Proposed

Stipulation: Subject to the stipulation set forth in this issue below, the Commission should approve the amount of \$547,756,895 (system) in EPU expenditures and \$4,161,728 (system) in O&M expenses as FPL's projected 2011 costs. The resultant jurisdictional costs, net of joint owner and other adjustments, are \$521,701,593 in EPU expenditures, \$49,129,740 in carrying charges, and \$3,917,202 in O&M expenses. In addition, jurisdictional base rate revenue requirements are \$28,270,391.

FPL, OPC and FIPUG stipulate, and SACE does not object, that the determination of FPL's reasonably projected 2011 costs should be deferred until the 2011 nuclear cost recovery cycle, and if any such costs are found to be unreasonable such finding will be reflected as a reduction in the nuclear cost recovery clause factor determined in the 2011 proceeding. Accordingly, it is agreed that approval of the collection of the amounts presented by FPL is preliminary in nature and those amounts are subject to refund in the form of a true-up based on the outcome of the deferred consideration.

ISSUE 24: What system and jurisdictional amounts should the Commission approve as FPL's final 2009 prudently incurred costs and final true-up amounts for the Turkey Point Units 6 & 7 project?

Proposed

Stipulation: Subject to the stipulation set forth in this issue below, the Commission should approve \$37,731,525 (system) and \$37,599,045 (jurisdictional) as FPL's final 2009 preconstruction costs, as well as \$857,693 in preconstruction carrying charges and \$373,162 in jurisdictional carrying charges on prior years' unrecovered site selection costs.

The final 2009 true up amount is an over recovery of \$7,845,423 in preconstruction expenditures and an over recovery of \$2,802,854 in preconstruction carrying charges on site selection unrecovered costs. The net amount of (\$10,648,277) should be included in FPL's 2011 NCRC recovery amount.

FPL, OPC and FIPUG stipulate, and SACE does not object, that the determination of FPL's final 2009 prudently incurred preconstruction costs should be deferred

until the 2011 nuclear cost recovery cycle, and if any such costs are found to be unreasonable such finding will be reflected as a reduction in the nuclear cost recovery clause factor determined in the 2011 proceeding. Accordingly, it is agreed that approval of the collection of the amounts presented by FPL is preliminary in nature and those amounts are subject to refund in the form of a true-up based on the outcome of the deferred consideration.

ISSUE 25: What system and jurisdictional amounts should the Commission approve as reasonably estimated 2010 costs and estimated true-up amounts for FPL's Turkey Point Units 6 & 7 project?

Proposed

Stipulation: Subject to the stipulation set forth in this issue below, the Commission should approve \$42,629,655 (system) and \$42,125,853 (jurisdictional) as FPL's 2010 actual/estimated preconstruction costs, as well as (\$4,734,785) in preconstruction carrying charges and \$145,965 in jurisdictional carrying charges on prior years' unrecovered site selection costs. FPL's 2010 actual/estimated expenditures are supported by comprehensive procedures, processes and controls which help ensure that these costs are reasonable.

The 2010 true up amount is an over recovery of \$48,528,272 in pre-construction expenditures and an over recovery of \$5,795,691 in preconstruction carrying charges on site selection unrecovered costs. The net amount of (\$54,323,963) should be included in FPL's 2011 NCRC recovery amount.

FPL, OPC and FIPUG stipulate, and SACE does not object, that the determination of FPL's 2010 actual/estimated preconstruction costs and estimated true-up amounts should be deferred until the 2011 nuclear cost recovery cycle, and if any such costs are found to be unreasonable such finding will be reflected as a reduction in the nuclear cost recovery clause factor determined in the 2011 proceeding. Accordingly, it is agreed that approval of the collection of the amounts presented by FPL is preliminary in nature and those amounts are subject to refund in the form of a true-up based on the outcome of the deferred consideration.

ISSUE 26: What system and jurisdictional amounts should the Commission approve as reasonably projected 2011 costs for FPL's Turkey Point Units 6 & 7 project?

Proposed

Stipulation: Subject to the stipulation set forth in this issue below, the Commission should approve \$29,469,475 (system) and \$29,121,201 (jurisdictional) as FPL's 2011 projected preconstruction costs, as well as \$2,189,194 in preconstruction carrying charges and \$171,052 in carrying charges on prior years' unrecovered site selection costs. The total amount of \$31,481,447 should be included in setting FPL's 2011 NCRC recovery amount.

FPL, OPC and FIPUG stipulate, and SACE does not object, that the determination of FPL's 2011 projected preconstruction costs should be deferred until the 2011 nuclear cost recovery cycle, and if any such costs are found to be unreasonable such finding will be reflected as a reduction in the nuclear cost recovery clause factor determined in the 2011 proceeding. Accordingly, it is agreed that approval of the collection of the amounts presented by FPL is preliminary in nature and those amounts are subject to refund in the form of a true-up based on the outcome of the deferred consideration.

ISSUE 27: What is the total jurisdictional amount to be included in establishing FPL's 2011 Capacity Cost Recovery Clause factor?

Proposed

Stipulation: Subject to the stipulation set forth in this issue below, the total jurisdictional amount of \$31,288,445 should be included in establishing FPL's 2011 Capacity Cost Recovery Clause factor. This amount consists of carrying charges on site selection costs, pre-construction costs and associated carrying charges for continued development of Turkey Point 6 & 7; and carrying charges on construction costs, O&M costs and base rate revenue requirements, all as provided for in Section 366.93, Florida Statutes and Rule 25-6.0423, F.A.C.

FPL, OPC and FIPUG stipulate, and SACE does not object, with respect to the Turkey Point 6 & 7 and Extended Power Uprate projects that the determination of FPL's final 2009 prudently incurred costs, reasonable actual/estimated 2010 costs and reasonably projected 2011 costs should be deferred until the 2011 nuclear cost recovery cycle, and if any such costs are found to have been imprudently incurred or unreasonable such finding will be reflected as a reduction in the nuclear cost recovery clause factor determined in the 2011 proceeding. Accordingly, it is agreed that approval of the collection of the amounts presented by FPL is preliminary in nature and those amounts are subject to refund in the form of a true-up based on the outcome of the deferred consideration.

XI. PENDING MOTIONS

PEF:

None at this time.

FPL:

Motion Document No.	Date	Description
06808-10	08/17/2010	Motion for approval of stipulation and for deferral of consideration of issues
05440-10	07/01/2010	Motion for temporary protective order of responses to OPC's 3rd request for PODs (Nos. 34-36, 40, 47-53, 55-61, 63, 66, and 67) and responses to OPC's 3rd set of interrogatories (Nos. 37 and 45)
05363-10	06/29/2010	Motion for temporary protective order of response to OPC's 3rd request for PODs (No. 60)
03881-10	05/07/2010	Motion for temporary protective order of Exhibit TOJ-14 and Exhibit SDS-9
03465-10	04/28/2010	Motion for temporary protective order of information included in FPL's responses to OPC's 1st request for PODs (Nos. 1, 2, 4, 5, 7, 9, 11, 15, 17, 19, and 20), and 2nd request for PODs (Nos. 21, 22, 25, 27-29)
01705-10	03/12/2010	Motion for temporary protective order of Exhibit TOJ-1 and Exhibit SDS-1

XII. PENDING CONFIDENTIALITY MATTERS

PEF:

Document No.	Request	Date Filed
01339-10; 01501-10	First Request for Confidential Classification re: Hardison & Garrett Testimony and Exhibits WG-1 & WG-2	03/01/10 (Revised 3/4/10)
02378-10	Request for Confidential Classification re EPC Agreement	4/01/10
03150-10	Second Request for Confidential Classification re: responses OPC 1 st Pods Nos. 1, 3, 6-9, 11-13, 15-18, 20, 22, 24, 25, 27-29, 31, 32, 34, 35, 37, 38, 40-43 and 1 st Rogs Nos. 6 & 7	4/22/10

03253-10	Third Request for Confidential Classification re: responses OPC 2 nd Pods No. 44, 45, 46, 51 and 52 and 2 nd Rogs Nos. 9, 12, 14, 17, 18, 28, and 32	4/23/10
03259-10	Fourth Request for Confidential Classification re: responses to Staff's 1 st Req for Production Nos. 1 & 3 and 1 st Rog No. 1A	4/23/10
03541-10	Fifth Request for Confidential Classification re: April 30 th Petition, Testimony and Exhibits	4/30/10
06791-10	Notice of Partial Withdrawal of and Modification to Fifth Request for Confidential Classification	8/17/10
03649-10 Undocketed	PEF Request for Confidential Classification re: Annual Status Report	4/30/10
04147-10	Progress Energy Florida's Request for Confidential Classification regarding Audit Control No. 10-006-2-1 Data Requests and Workpapers	5/17/10
04396-10	Progress Energy Florida's Sixth Request for Confidential Classification regarding Staff's Second Request for Production of Documents (Nos. 4-7) and Staff's Third Set of Interrogatories (Nos. 7-9)	5/25/10
04929-10	Progress Energy Florida's Seventh Request for Confidential Classification regarding Audit Control 10-006-2-2 Workpapers	6/14/10
04925-10	Progress Energy Florida's Eighth Request for Confidential Classification regarding PEF responses to OPC's Third Interrogatories Nos. 34-63 and Third Request for Production Nos. 54-73	6/14/10
05208-10	Progress Energy Florida's Ninth Request for Confidential Classification re PEF Supplemental Responses to OPC Third Pods Nos. 61, 64, 65 and 71	6/23/10
052061-10	PEF's Tenth Request for Confidential Classification re: PEF responses OPC 4 th Interrogatories and 4 th Request for Production	6/23/10
05204-10	PEF's Eleventh Request for Confidential Classification re: PEF Supplemental Response OPC 3 rd Request for Production No. 54	6/23/10

05698-10	PEF's Twelfth Request for Confidential Classification re: Portions of documents and information provided to staff auditor during Audit No. PA 10-01-001	7/12/10
05701-10 06796-10	PEF's Thirteenth Request for Confidential Classification re: Audit Report No. PA-10-01-001	7/12/10 (Revised 8/17/10)
05704-10	PEF's Fourteenth Request for Confidential Classification re: PEF's Responses to White Springs d/b/a PCS Phosphate First Set of Interrogatories Nos. 1-2	7/12/10
05707-10	PEF's Fifteenth Request for Confidential Classification re: PEF's Responses to Staff's 6 th Interrogatories Nos. 20-25	7/12/10
06022-10	PEF's Sixteenth Request for Confidential Classification re: Audit Control No. 10-01-001 Workpapers	7/22/10
06115-10	PEF's Seventeenth Request for Confidential Classification re: Jacobs Testimony	7/27/10
***	Notice of Partial Withdrawal of its Seventeenth Request for Confidential Classification re: Jacobs Testimony	8/16/10
06359-10	PEF's Eighteenth Request for Confidential Classification re: Rebuttal Testimony	8/3/10
06382-10	PEF's Nineteenth Request for Confidential Classification re: Prehearing Statement	8/3/10
06547-10	PEF's Amended Nineteenth Request for Confidential Classification re: Prehearing Statement	8/6/10
06496-10	PEF's Twentieth Request for Confidential Classification re: Deposition of Jacobs	8/5/10
06650-10	PEF's Notice of Withdrawal of Its Requests for Confidential Classification Regarding Portions of Certain Confidentiality Designations	8/11/10
***	PEF's Twenty-First Request for Confidential Classification re: PEF Responses to Staff's 4 th Request for Production of Documents	8/18/10
***	PEF's Notice of Partial Withdrawal of its Sixth Notice of Intent to	8/17/10

	Seek Confidential Classification	
***	PEF's Twenty-Second Request for Confidential Classification re: PEF's Responses to OPC's 5 th Interrogatories (Nos. 90-93) and OPC's 5 th Request for Production of Documents (Nos. 80-81)	8/18/10
***	PEF's Twenty-Third Request for Confidential Classification re: Jacobs Deposition Transcript	8/18/10
02524-10	Motion for Temporary Protective Order re: responses OPC 1 st Pods Nos. 1, 3, 6-9, 11-13, 15-18, 20, 22, 24, 25, 27-29, 31, 32, 34, 35, 37, 38, 40-43 and 1 st Rogs Nos. 6 & 7	4/6/10
02594-10	Second Motion for Temporary Protective Order Classification re; responses OPC 2 nd Pods No. 44, 45, 46, 51 and 52 and 2 nd Rogs Nos. 9, 12, 14, 17, 18, 28, and 32	4/7/10
04923-10	Third motion for temporary protective order of responses to OPC's 3rd request for PODs (Nos. 54, 56-58, 60-64, and 73), and OPC's 3rd set of interrogatories (Nos. 51, 53, 54, 61, and 62)	6/24/10
05215-10	Fourth Motion for Temporary Order re: PEF Supplemental Responses to OPC 3 rd Pods Nos. 61, 64, 65 and 71	6/23/10
06580-10	Fifth Motion for Temporary Protective Order of responses to OPC's 5 th Request for Production of Documents No. 80 and 5 th Interrogatory No. 93	8/9/10

FPL:

Request Document No.	Date	Description
TBD	8/9/2010	Request for confidential classification of revised Exhibits TOJ-1, SDS-1, TOJ-14, and SDS-9
06502-10	8/5/2010	Request for confidential classification of response to Staff's 5th Set of Interrogatories No. 15
06386-10	8/3/2010	Request for confidential classification of portions of Exhibit SRS-12 to the testimony of Steven R. Sim
06156-10	07/28/2010	Request for confidential classification of portions of the Testimony of Dr. William Jacobs
05908-10	07/19/2010	Request for confidential classification of staff's audit workpapers

04563-10	06/01/2010	Request for confidential classification of materials provided pursuant to Audit No. 10-006-4-1
04560-10	06/01/2010	Request for confidential classification of materials provided pursuant to Audit No. 10-006-4-2
04065-10	05/13/2010	Request for confidential classification of responses to OPC's request for POD's 1&2
03681-10	05/03/2010	Request for confidential classification of Exhibit SDS-9 to testimony of Steven D. Scroggs and Exhibit TOJ-14 to testimony of Terry O. Jones
03168-10	4/22/2010	Revised request for confidential classification of documents provided pursuant to Audit Control No. 08-087-4-1 (original request filed in Docket No. 080009-EI)
03164-10	4/22/2010	Revised request for confidential classification of information contained in the revised direct testimony and exhibits of William R. Jacobs, Jr., PhD (original request filed in Docket No. 080009-EI)
01375-10	03/1/2010	Request for confidential classification of portions of Exhibit TOJ-1 to testimony of Terry O. Jones and Exhibit SDS-1 to testimony of Steven D. Scroggs (revised Exhibit A and Revised Exhibit B filed 3/23/2010)

XIII. POST-HEARING PROCEDURES

If no bench decision is made, each party shall file a post-hearing statement of issues and positions. A summary of each position of no more than 80 words, set off with asterisks, shall be included in that statement. If a party's position has not changed since the issuance of this Prehearing Order, the post-hearing statement may simply restate the prehearing position; however, if the prehearing position is longer than 80 words, it must be reduced to no more than 80 words. If a party fails to file a post-hearing statement, that party shall have waived all issues and may be dismissed from the proceeding.

Pursuant to Rule 28-106.215, F.A.C., a party's proposed findings of fact and conclusions of law, if any, statement of issues and positions, and brief, shall together total no more than 50 pages and shall be filed at the same time.

XIV. RULINGS

All opening statements, testimony, and exhibits pertaining to PEF's petition shall be taken up first, followed immediately by all opening statements, testimony and exhibits pertaining to FPL's petition. Opening statements, if any, shall not exceed ten minutes per party for PEF's petition and shall not exceed ten minutes per party for FPL's petition.

FIPUG's request that FPL's portion of the hearing start no earlier than Thursday, August 26, 2010 is denied.

FPL shall file a petition to revise its pre-filed testimony. FPL filed the 2009 true-up cost data for the Nuclear Cost Recovery Clause in March 2010 and the 2010 estimated/actual and 2011 projected cost data for nuclear cost-recovery in May 2010. On August 9, 2010, FPL filed errata sheets to its pre-filed testimony, Appendices I, II, and III to its March 1, 2010 filing, Appendices I, II, and III to its May 3, 2010 filing, and the NFRs. In addition to filing a petition for approval to revise its pre-filed testimony, FPL shall re-file the corrected testimony, appendices, and NFRs in type-and-strike format by August 16, 2010. If type-and-strike format is not feasible, for example where numerical data in spreadsheet cells must be corrected, FPL shall highlight the information that has been corrected in the cell and provide a comment, where necessary. The discovery deadline is extended to August 23, 2010, to allow staff and the intervenors an opportunity to review FPL's revised testimony. The staff and the intervenors shall be permitted to provide live testimony at hearing, but such testimony shall be limited to revisions from the errata sheet as incorporated in the revised testimony. Finally, original Issue 3 shall be changed to Issue 3A, and Issue 3B has been added.

It is therefore,

ORDERED by Commissioner Nathan A. Skop, as Prehearing Officer, that this Prehearing Order shall govern the conduct of these proceedings as set forth above unless modified by the Commission.

By ORDER of Commissioner Nathan A. Skop, as Prehearing Officer, this 20th day of August, 2010.



NATHAN A. SKOP

Commissioner and Prehearing Officer

(SEAL)

KY

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

Any party adversely affected by this order, which is preliminary, procedural or intermediate in nature, may request: (1) reconsideration within 10 days pursuant to Rule 25-22.0376, Florida Administrative Code; or (2) judicial review by the Florida Supreme Court, in the case of an electric, gas or telephone utility, or the First District Court of Appeal, in the case of a water or wastewater utility. A motion for reconsideration shall be filed with the Office of Commission Clerk, in the form prescribed by Rule 25-22.0376, Florida Administrative Code. Judicial review of a preliminary, procedural or intermediate ruling or order is available if review of the final action will not provide an adequate remedy. Such review may be requested from the appropriate court, as described above, pursuant to Rule 9.100, Florida Rules of Appellate Procedure.