

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Nuclear Cost Recovery Clause

Docket No. 140009-EI  
Submitted for Filing: September 17, 2014

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**REDACTED** DUKE ENERGY FLORIDA'S NINTH REQUEST FOR  
CONFIDENTIAL CLASSIFICATION REGARDING  
STAFF-GENERATED AUDIT WORKPAPERS

Duke Energy Florida, Inc. ("DEF" or the "Company"), pursuant to Sections 366.093, Florida Statutes, and Rule 25-22.006(3), Florida Administrative Code, requests confidential classification of portions of the Florida Public Service Commission Staff-Generated Auditors' Workpapers (the "Workpapers"). These documents contain confidential contractual, financial, and vendor information, the disclosure of which would impair DEF's competitive business interests. These documents meet the definition of proprietary confidential business information pursuant to section 366.093(3), Florida Statutes. The unredacted documents are being filed under seal with the Commission on a confidential basis to keep the competitive business information in those documents confidential.

**BASIS FOR CONFIDENTIAL CLASSIFICATION**

Section 366.093(1), Florida Statutes, provides that "any records received by the Commission which are shown and found by the Commission to be proprietary confidential business information shall be kept confidential and shall be exempt from [the Public Records Act]." § 366.093(1), Fla. Stat. Proprietary confidential business information means information that is (i) intended to be and is treated as private, confidential information by the Company, (ii) because disclosure of the information would cause harm, (iii) either to the Company's customers or the Company's business operation, and (iv) the information has not been voluntarily disclosed to the public. § 366.093(3), Fla. Stat. Specifically, "information concerning bids or other

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AFD 1  
APA 1  
ECO 1  
ENG 1  
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contractual data, the disclosure of which would impair the efforts of the public utility or its affiliates to contract for goods or services on favorable terms” is defined as proprietary confidential business information. § 366.093(3)(d), Fla. Stat. Additionally, section 366.093(3)(e) defines “information relating to competitive interests, the disclosure of which would impair the competitive business of the provider of the information,” as proprietary confidential business information, and section 366.093(3)(b) provides that “[i]nternal auditing controls and reports of internal auditors” is proprietary confidential business information.

### **DOCUMENTS AT ISSUE**

Portions of the aforementioned documents should be afforded confidential classification for the reasons set forth in the Affidavit of Christopher M. Fallon filed in support of DEF’s Request for Confidential Classification, and for the following reasons. Specifically, portions of these documents contain confidential financial information, as well as contractual data, including pricing agreements, payment information and other confidential financial and contractual terms, the release of which would impair DEF’s competitive business interests and ongoing negotiations with vendors. See Affidavit of Fallon, ¶¶ 3-5. The disclosure of this information would compromise DEF’s competitive business interests and in certain instances violate contractual confidentiality provisions with DEF’s vendors. Id.

Also included in the auditors’ Workpapers is information related to and gleaned from the Company’s contracts for the Levy project (“Levy”). This information contains and includes sensitive business information, including pricing agreements, the disclosure of which would harm DEF’s competitive business interests. Affidavit of Fallon, ¶¶ 3-5. In order to successfully obtain competitive contracts, however, DEF must be able to assure the other parties to the contracts that the sensitive business information contained therein, such as pricing terms, will

remain confidential. DEF has kept confidential and has not publicly disclosed the costs and provisions at issue here. Absent such measures, DEF would run the risk that sensitive business information regarding what it is willing to pay for certain goods and services, as well as what the Company is willing to accept as payment for certain goods and/or services, would be made to available to the public and, as a result, other potential suppliers, vendors, and/or purchasers of such services could change their position in negotiations with DEF. Without DEF's measures to maintain the confidentiality of sensitive terms in these contracts, the Company's efforts to obtain competitive contracts, and/or disposition Levy equipment, would be undermined. Affidavit of Fallon, ¶¶ 3-4. Accordingly, this information should be afforded confidential treatment by the Commission. See § 366.093(3)(d)(e), Fla. Stat.

Upon receipt of this confidential information, strict procedures are established and followed to maintain the confidentiality of the information provided, including restricting access to only those persons who need the information to assist the Company. See Affidavit of Fallon, ¶¶ 5-6. At no time since receiving the information in question has the Company publicly disclosed that information. See id. The Company has treated and continues to treat the information at issue as confidential. Id.

### CONCLUSION

The competitive, confidential contractual cost and vendor information at issue in this request fits the statutory definition of proprietary confidential business information under Section 366.093, Florida Statutes, and Rule 25-22.006, Florida Administrative Code, and that information should be afforded confidential classification. In support of this motion, DEF has enclosed the following:



(1) A separate, sealed envelope containing one copy (cd) of the confidential Appendix A to DEF's Request for Confidential Classification for which DEF has requested confidential classification with the appropriate section, pages, or lines containing the confidential information highlighted. **This information should be accorded confidential treatment pending a decision on DEF's request by the Florida Public Service Commission;**

(2) Two copies of the documents with the information for which DEF has requested confidential classification redacted by section, page or lines, where appropriate, as Appendix B; and,

(3) A justification matrix supporting DEF's Request for Confidential Classification of the highlighted information contained in confidential Appendix A, as Appendix C.

WHEREFORE, DEF respectfully requests that the redacted portions of Staff-Generated Auditors' Workpapers be granted confidential classification and treated accordingly.

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY a true and correct copy of the foregoing has been furnished to counsel and parties of record as indicated below via electronic mail this 17<sup>th</sup> day of September, 2014.

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Exhibit B



## Performance Analysis Section 2014 Work Plan Progress Energy-Florida's LNP Construction / Crystal River Unit 3 Uprate

Task	Subtask	Auditor Notes	Conclusions
<b>NEW CONSTRUCTION</b>			
<b>2.1 Project Planning</b>			
<p>What is the current status of the project?</p> <p>How has the scope of the project changed in light of the stipulation?</p>	<p>Update and describe project <i>planning</i> made since the last review for the project and its effect on the project schedule and costs.</p> <p>Obtain and document any external reviews performed relative to <i>planning</i> since the last review.</p> <p>Review any detailed internal feasibility studies completed relative to project/<i>planning</i> scope changes.</p> <p>Determine any impacts of the merger on the decision to cancel construction of the Levy project. Identify changes to the project planning approach of the combined companies.</p> <p>Identify the potential impacts of the Fukushima accident, Waste Confidence, and other regulatory decisions on the Levy project in terms of strategy, timing, feasibility and other decisions under Duke's control.</p>	<p>Duke Energy Florida (DEF) made the decision not to construct LNP Units 1 &amp; 2 under the previous timeline.</p>	<p>Staff recognizes that potential delays in the NRC Waste Confidence Rulemaking after September 2014 could impact the COL issuance timeline. This could also impact the overall costs associated with COL approval.</p>
<p>What is the current project schedule?</p> <p>What is the expected NRC COLA approval date?</p> <p>What is the schedule for disposition of Levy assets?</p>	<p>Review and update the status of project planning, engineering, equipment modification, and phasing of work schedules to complete the licensing portion of the project, and identify any potential delays.</p> <p>Review and update the tracking of the project's schedule and costs.</p> <p>Document the status of long-lead and other equipment to be disposed.</p>	<p>DEF's documentation reflects the decision to suspend any construction activities outside of the COL application process. DEF has revised its current project schedule to represent this decision, and the Board of Director's approved this decision with the acceptance of the settlement reached in the 2013 Nuclear Cost Recovery Docket.</p> <p>LNP's Combined Operating Licenses (COL) application schedule has been extended to mid-2015 due to NRC-related issues.</p> <p>In January 2014, the company notified the Engineering, Procurement, and Construction Consortium of its decision to cancel the contract due to lack of Regulatory approval. The company resolved details of this decision with Chicago Bridge &amp; Iron Company in April 2014, and currently is working with Westinghouse Electric Company, LLC to resolve the remaining details.</p> <p>DEF and the Westinghouse Electric Company LLC</p>	



39	<p><b>Conclusions:</b></p> <p><b>Data Request(s) Generated:</b> No. _____ Description: No. _____ Description:</p> <p><b>Follow-up Required:</b> 1. Discuss the multiple disposition options currently being evaluated by DEF for the LLE ordered under the Levy EPC contract. 2. When will the final LLE disposition decisions, based on minimizing future costs while maximizing benefit to DEF customers, be implemented and completed?</p>
<p><b>Document #: NEW DR1.23</b> <b>Date Requested: 11/23/13</b> <b>Date Received: 1/17/14</b> <b>Comments: (i.e., Confidential)</b></p> <p>REDACTED</p>	<p><b>Document Title and Purpose of Review:</b> Please update the status and describe any changes to the disposition LLE contracts.</p> <p><b>Summary of Contents:</b> The status of each LLE component is regularly documented by the Consortium in the EPC Quarterly Project Status Reports. See attached in response to DR1.22 above. Fabrication of tubing for the Levy 1A, 1B, 2A and 2B Steam Generators (SGs) was completed during 2013. DEF reviewed the Certified Mill Test Report (CMTR) data packages and signed off Hold Points for the SG tubing for the Levy 1A, 1B, 2A and 2B SGs in January, March, April and May respectively. Completion of these Hold Points supported shipment of the SG tubing from Nippon Steel and Sumitomo Metal (the tubing fabricator) in Japan to Doosan (the primary subcontractor for fabrication of the Levy 1A, 1B, 2A and 2B Steam Generators) in Korea.</p> <p>Fabrication was underway on the Accumulator Tanks (ACTs), Core Make-Up Tanks (CMTs) Pressurizers (PZR) and PRHR Heat Exchangers (PRHR Hxs) for Levy Units 1 &amp; 2 at vendor's facility in Italy during 2013. Following the approval of the Settlement, WEC provided DEF an offer from vendor to cancel fabrication of these four LLE components. Given the uncertainty regarding new nuclear in Florida [REDACTED] the incremental costs to store the LLE and the uncertain market for the LLE equipment, the offer from the vendor results in savings of approximately [REDACTED] versus completion of the equipment and was consequently accepted. This analysis and decision is documented in the attached documents. <b>(returned disk to company)</b></p> <p>In November, 2013, DEF requested WEC to pursue a cancellation offer in the near term from the vendor of the Reactor Coolant Loop (RCL) piping. WEC provided DEF an offer from the vendor to cancel fabrication of the RCL piping in early January 2014. On January 9, 2014, DEF accepted this cancellation offer for the RCL piping. The offer from the vendor resulted in savings of approximately [REDACTED] versus completion of the equipment. Given the uncertainty regarding new nuclear in Florida, the incremental costs to store the RCL piping and the uncertain market for the RCL piping the offer was accepted. This analysis and decision is documented in the attached documents. With this cancellation, there are no other LLE currently being fabricated. As noted in the response to New DR1.22, DEF is currently evaluating multiple disposition options for the remaining LLE under the Levy EPC contract. Final LLE disposition decisions will be based on minimizing future costs while maximizing benefit to DEF customers. See attached documents attached in Bates range 14PMA-DR1LEVY-23-000001 through 14PMA-DR1LEVY-123-000014. <b>(returned disk to company)</b></p> <p><b>Conclusions:</b></p> <p><b>Data Request(s) Generated:</b> No. _____ Description: No. _____ Description:</p> <p><b>Follow-up Required:</b></p>
<p><b>Document #: NEW DR1.24</b> <b>Date Requested: 11/23/13</b> <b>Date Received: 1/17/14</b> <b>Comments: (i.e., Confidential)</b></p>	<p><b>Document Title and Purpose of Review:</b> Provide a current listing of all internal and external audits completed for the Levy project since January 2013, and any planned for 2014. Also provide a copy of all completed audit reports--including all recommendations, management responses, and actions taken as a result of these audits.</p> <p><b>Summary of Contents:</b> No internal audits of the Levy project were completed during 2013. The 2014 internal audit plan does not currently include any audits of the Levy project. There were no controls related external audits of the Levy project in 2013 and none are planned for 2014.</p> <p><b>Conclusions:</b></p> <p><b>Data Request(s) Generated:</b> No. _____ Description: No. _____ Description:</p>



## Bureau of Performance Analysis Interview Summary

Company: Duke Energy Florida Area: Project Management Internal Controls Auditor(s): L. Fisher, T. Coston,	Interview Number: 2 File Name: 3.5.2 INTERVIEW SUMMARY NEW.DOC
Names: Lawrence Denny (Nuclear Development Analyst), Rob Kitchen (Director of Licensing Nuclear Development), John Thrasher (Engineering Permit), Paul Moore (Regulatory), Christopher Fallon (Vice President Nuclear Development), Geoff Foster (Regulatory)	Date of Interview: 3/25/14 Location: St. Petersburg Headquarters Telephone Number:

(1) Purpose of Interview:

(2) Interview Summary:

- a. The company provided a power point for this interview (DR2 document **14PMA-DR2Levy-1-000001-28**).
- b. There was some change within the organization (Lynn Good) in 2013.
- c. **2013 Permitting and Licensing Accomplishments** (pg. 000005)
  - a. ASLB ruled in Duke's favor regarding environmental impacts of dewatering and salt drift
  - b. COLA Revision 6 submitted
  - c. Reviewed condensate return design change with NRC
  - d. NRC published draft GEIS and Waste Confidence Proposed Rule
  - e. USACE determined the Cross Florida Greenway lands are compatible with statutes
  - f. Established process to evaluate "New & Significant" information
  - g. Established process for management of Levy COL changes
- d. **Remaining issues** that need to be addressed by Duke are listed on pg. 000009
- e. **EPC Agreement Background** (pg. 000013)
  - a. EPC Agreement signed 12/31/08
  - b. EPC Agreement partially suspended 04/09
  - c. 2010-2013 Continue support of COL
  - d. Florida Settlement 7/31/13
- f. Duke has **terminated their EPC contract** on 1/18. They will continue to end LLE contracts. There is a disputed contract cancelation cost (\$30 million) with WEC whether the contract was canceled out of convenience or within the parameters to the contract. Termination cost impact. The sub-contractors have limited work authorization. The EPC Agreement was suspended in April 2009. If Duke had not received the COL by 1/1/14, then they could end the contract. (\$30 M + disposition of assets (LLE) + termination costs) **2013 Levy and EPC Agreement Timeline and current Status** on pg. 000014.
- g. Manufacturers are **sub-contractors** to Westinghouse. Duke has no contracts with them. They have to use Westinghouse as a middleman. Most of LLE can only be used for AP1000. Duke is trying to minimize cost under EPC contract, but they are at WEC mercy. Duke tried to communicate early and often with the sub-contractors. Duke cannot impose a schedule on WEC to dispose of assets. QA is managed by sub-contractors. **LLE disposition** on pg.000016 and 000018. January 16, 2014 **LLE Disposition Memo**.
- h. They are trying to decide how to dispose or store the **LLE**. Storing the equipment would mean more incurred costs as well as an additional risk factor. Long-term storage of the LLE is out of the question. This does not mesh with the NRC. The marketability and demand of the equipment is fairly low. **Marketing of LLE Status** on pg. 000022. Westinghouse is not interested in consignment of LLE. There is no interest in any existing AP 1000 plant or within Duke. On Nov. 7<sup>th</sup>, DEF instructed Westinghouse to terminate the purchase order with Mangiarotti (settlement on pg. 000019). DEF has no further liabilities to WEC for this equipment. On Jan.9<sup>th</sup>, DEF instructed WEC to terminate the purchase order with Tioga for the RCL (settlement on pg. 000020). DEF also has no further liabilities to WEC for this equipment. Duke accepted both cancellation offers by Mangiarotti and Tioga. Stopping was not a viable option for the manufacturers who had started working. The LLE manufacturer settlements and Tioga. **Summary of Levy LLE** on pg. 000021. **LLE Current Status** on pg. 000023.
- i. They will continue to pursue the **COLA**. The **waste confidence** issue has pushed back all NRC licensing (6-8 months). Duke believes that the issue should be resolved by Oct. There is flexibility on how to deal with this issue in the long term. The **ACRS Review** drives the **FSER**. **Updated COL schedule** on pg. 000006-8. **COL work for 2014-2015** on pg. 000010. **COLA Risk Matrix** on pg. 000011.
- j. April 9<sup>th</sup> meeting with ACRS and Westinghouse. If they meet with the sub-committee, it could add 2 more months. 2 plants under construction that could impact the design (Vogtle). An evaluation is done on what could come up.
- k. They are also still pursuing the **404 permit** from the **USACOE**. Duke will be meeting with the ACOE on April 9<sup>th</sup>. The 404 permit is not delaying the COLA process. The ACOE has concerns about the Cross Florida Barge canal used as an intake. They were given allowance to use greenway.
- l. For the **Environmental Impact Statement**, they are evaluating all "New and Significant" information.

**DUKE ENERGY FLORIDA**  
**DOCKET NO. 140009-EI**  
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**Confidentiality Justification Matrix**

DOCUMENT	PAGE/LINE/ COLUMN	JUSTIFICATION
Staff Generated Workpapers, Page 39	Second Row, Summary of Contents, 9 <sup>th</sup> line, last three words; 10 <sup>th</sup> line, first two words; 11 <sup>th</sup> line, fourth and fifth words; 15 <sup>th</sup> Line, fifth and sixth word from the end	<p>§366.093(3)(a), Fla. Stat. The document in question contains proprietary confidential information relating to trade secrets, the disclosure of which would impair DEF's business operations.</p> <p>§366.093(3)(d), Fla. Stat. The document portions in question contain confidential contractual information, the disclosure of which would impair DEF's efforts to contract for goods or services on favorable terms.</p> <p>§366.093(3)(e), Fla. Stat. The document portions in question contain confidential information relating to competitive business interests, the disclosure of which would impair the competitive business of the provider/owner of the information.</p>
Staff Generated Workpapers, Page 55	5 <sup>th</sup> row, paragraph h., last line, first six words	<p>§366.093(3)(a), Fla. Stat. The document in question contains proprietary confidential information relating to trade secrets, the disclosure of which would impair DEF's business operations.</p> <p>§366.093(3)(d), Fla. Stat. The document portions in question contain confidential contractual information, the disclosure of which would impair DEF's efforts to contract for goods or services on favorable terms.</p>



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DOCUMENT	PAGE/LINE/ COLUMN	JUSTIFICATION
		§366.093(3)(e), Fla. Stat. The document portions in question contain confidential information relating to competitive business interests, the disclosure of which would impair the competitive business of the provider/owner of the information.