

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Nuclear Cost Recovery Clause

Docket No. 150009-EI
Submitted for Filing: May 1, 2015

**DUKE ENERGY FLORIDA, INC.'S NOTICE OF FILING
THE DIRECT TESTIMONY AND EXHIBITS OF CHRISTOPHER M. FALLON**

Duke Energy Florida, Inc. ("DEF" or the "Company"), hereby gives notice of filing the Direct Testimony of Christopher M. Fallon with Exhibit Nos. ___ (CMF-7) and (CMF-8) (redacted version) in support of DEF's Petition for Approval of Nuclear Costs to be Recovered During the Period January-December 2016 for the Levy Nuclear Project and Crystal River Unit 3 Uprate Project as Provided in Section 366.93(6), Florida Statutes, and Rule 25-6.0423(7), Florida Administrative Code.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY a true and correct copy of the foregoing has been furnished to counsel and parties of record as indicated below via electronic and U.S. Mail this 1st day of May, 2015.

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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

**In re: Nuclear Cost Recovery
Clause**

**DOCKET NO. 150009-EI
Submitted for filing: May 1, 2015**

REDACTED

DIRECT TESTIMONY OF CHRISTOPHER M. FALLON

**ON BEHALF OF
DUKE ENERGY FLORIDA, INC.**

IN RE: NUCLEAR COST RECOVERY CLAUSE

BY DUKE ENERGY FLORIDA, INC.

FPSC DOCKET NO. 150009-EI

DIRECT TESTIMONY OF CHRISTOPHER M. FALLON

1 **I. INTRODUCTION AND QUALIFICATIONS.**

2 **Q. Please state your name and business address.**

3 A. My name is Christopher M. Fallon. My business address is 526 South Church Street,
4 Charlotte, North Carolina 28202.

5
6 **Q. Who do you work for and what is your position with that company?**

7 A. I am employed by Duke Energy Corporation (“Duke Energy”) as Vice President of
8 Nuclear Development. Duke Energy Florida, Inc. (“DEF” or the “Company”) is a
9 fully owned subsidiary of Duke Energy.

10
11 **Q. Have you previously provided testimony in Docket No. 150009-EI?**

12 A. Yes. I submitted direct testimony in this docket on March 2, 2015.

13
14 **II. PURPOSE AND SUMMARY OF TESTIMONY.**

15 **Q. What is the purpose of your May 1, 2015 direct testimony?**

16 A. One purpose of my testimony is to describe DEF’s wind-down activities for the Levy
17 Nuclear Project (“LNP” or “Levy”). These activities relate to the disposition of long
18 lead time equipment (“LLE”) with Westinghouse Electric Company LLC (“WEC”)

1 and its suppliers subsequent to the termination of the Engineering, Procurement, and
2 Construction (“EPC”) Agreement with WEC and Stone & Webster, Inc. (“S&W”)
3 (together, the “Consortium”). I present and support DEF’s 2015 actual/estimated and
4 2016 projected LNP wind-down costs related to these wind down activities.

5 Another purpose of my testimony is to provide the Florida Public Service
6 Commission (the “Commission”) an update on the Company’s Combined Operating
7 License Application (“COLA”) with the Nuclear Regulatory Commission (“NRC”) for
8 the Combined Operating License (“COL”) for the Levy site. The Company, however,
9 is not seeking any costs related to the Company’s pursuit of the COL, environmental
10 permitting, wetlands mitigation, conditions of certification, and other costs related to
11 the COL for the Levy site in this Nuclear Cost Recovery Clause (“NCRC”) docket.
12 DEF agreed that it would not seek to recover these costs from customers through the
13 NCRC pursuant to the 2013 Revised and Restated Stipulation and Settlement
14 Agreement (“2013 Settlement Agreement”) approved by the Commission in Order No.
15 PSC-13-0598-FOF-EI.

16
17 **Q. Do you have any exhibits to your testimony?**

18 **A.** Yes, I am sponsoring the following exhibits to my testimony:

- 19 • Exhibit No. ____ (CMF-7), a confidential chart of the Company’s LNP LLE
20 disposition actions and status; and
- 21 • Exhibit No. ____ (CMF-8), a chart of the expected LNP COLA schedule.

22 I am also sponsoring or co-sponsoring portions of the Schedules attached to Thomas
23 G. Foster’s testimony as Exhibit No. ____ (TGF-3). Specifically, I am co-sponsoring

1 portions of the 2015 and 2016 Detail Schedules and sponsoring Appendices D and E.
2 These Schedules reflect the 2015 and 2016 actual/estimated revenue requirement
3 calculations, the major task categories and expense variances, and a summary of
4 contracts and details over \$1 million.

5 All of these exhibits and schedules are true and accurate to the best of my
6 knowledge and information.

7
8 **Q. Please summarize your testimony.**

9 A. DEF is nearly complete with its wind-down plan for the LNP. Final disposition
10 decisions have been made for all but one of the Levy LLE. DEF anticipates making
11 the final disposition decision for this remaining Levy LLE component this year.

12 DEF and WEC initiated litigation against each other for claims under the EPC
13 Agreement. DEF will continue to advance its claims against WEC and defend the
14 claims WEC has asserted against DEF in the North Carolina federal court litigation.

15 DEF currently plans to continue its COLA work to obtain the COL for the
16 Levy site from the NRC. DEF currently anticipates COL receipt in May of 2016.

17
18 **III. LNP WIND-DOWN ACTIVITIES.**

19 **Q. Does DEF have actual/estimated costs in 2015 as a result of Levy wind-down**
20 **activities?**

21 A. Yes. DEF's actual/estimated 2015 wind-down costs are [REDACTED]. See 2015 Detail
22 LNP Schedule of Exhibit No. ___ (TGF-3) to Mr. Foster's testimony. Mr. Foster also
23 describes other wind-down costs projected for 2015 and 2016. These total costs are

1 offset by the approximately [REDACTED] projected to be received for the sale or salvage
2 of Levy LLE shown on line 1c in the 2015 Detail Schedule.

3
4 **Q. Please describe the Levy wind-down activities and costs.**

5 A. Wind-down cost were incurred and will be incurred in 2015 for (1) storage, insurance,
6 and quality assurance for the remaining Levy LLE component, the Variable Frequency
7 Drives (“VFDs”), until final disposition; (2) internal Duke Energy labor to assist with
8 disposition of the LLE; and (3) regulatory and wind-down support. DEF does not
9 include in this filing potential, future wind-down or LLE disposition costs or credits
10 that DEF cannot reasonably quantify at this time.

11
12 **Q. Can you explain the current status of the Levy VFDs?**

13 A. Yes. As I explained in my March testimony in this Docket, the VFDs are the sole
14 remaining Levy LLE component that DEF must disposition. Disposition decisions for
15 the other Levy LLE components have been made. *See* Exhibit No. ____ (CMF-7).
16 Because fabrication for the VFDs was completed, and DEF assumed the Purchase
17 Order (“PO”) for the VFDs, DEF has offered the VFDs for sale or salvage consistent
18 with its LLE Disposition Plan. DEF has marketed and offered the VFDs for sale to
19 Duke Energy affiliates and to external utilities, including utilities with existing or
20 potential AP1000 nuclear power projects in the United States and in China. DEF also
21 offered the VFDs for sale on the external utility parts market through RAPID, a utility
22 industry parts website, and DEF further offered the VFDs to scrap buyers. DEF then

1 re-offered the VFDs for sale in a bid event utilizing the Power Advocate
2 bidding/sourcing software to further canvas the potential market for the VFDs.

3 None of these efforts yielded an offer for the VFDs for any value beyond scrap
4 value. Siemens, the VFDs manufacturer, [REDACTED]

5 [REDACTED]
6 [REDACTED]

7 Unrelated to DEF's attempts to sell or salvage the Levy AP1000 VFDs, [REDACTED]

8 [REDACTED]
9 [REDACTED]
10 [REDACTED]
11 [REDACTED]
12 [REDACTED]
13 [REDACTED]

14 [REDACTED]

15 [REDACTED]
16 [REDACTED]
17 [REDACTED]
18 [REDACTED] X

19 [REDACTED] Following its evaluation, DEF will choose the option

20 [REDACTED] that provides the greatest

21 value to DEF's customer.

22

23

1 **Q. When does DEF expect to make a final decision with respect to the VFDs?**

2 A. DEF expects to make a final decision with respect to the VFDs by the late summer.

3
4 **Q. Does DEF project that it will incur Levy wind-down costs in 2016?**

5 A. DEF expects minimal wind-down costs of [REDACTED] for project management and
6 regulatory support in 2016 as shown on line 1e of the 2016 Detail LNP Schedule
7 attached as Exhibit No. ___(TGF-3) to Mr. Foster's testimony. As I mentioned above,
8 this projection does not take into account any costs that DEF simply is not able to
9 reasonably quantify at this time.

10
11 **Q. What is the status of DEF's litigation with WEC?**

12 A. DEF's lawsuit with WEC is currently pending before the United States District Court
13 for the Western District of North Carolina. DEF continues to vigorously pursue its
14 claims and to vigorously defend against the claims WEC has brought in that lawsuit.
15 The current case management schedule in this lawsuit includes a trial date for
16 February 2016. DEF cannot reasonably predict the outcome of this litigation at this
17 time. DEF cannot project the costs or refunds resulting from the resolution of the
18 claims in this litigation.

19
20 **IV. LEVY COMBINED OPERATING LICENSE APPLICATION UPDATE.**

21 **Q. What is the status of the Levy COLA for the COL for the Levy site?**

22 A. There are three parts to the NRC COLA review process and all three parts must be
23 complete before the NRC will issue a COL. Those three parts of the NRC COLA

1 review process are: (i) the environmental review process; (ii) the safety review
2 process; and (iii) the formal hearing process.

3 The environmental review process for the Levy COLA was complete when
4 DEF received the Levy final environmental impact statement (“FEIS”) on April 27,
5 2012. The remaining two parts of the NRC COLA review process for the Levy COLA
6 are incomplete although steps in these review processes have been completed.

7
8 **Q. What is the status of the NRC safety review for the Levy site COL?**

9 A. The Final Safety Evaluation Report (“FSER”) for the Levy COL has not been issued.
10 The Advanced Safety Evaluation Report (“ASER”), was initially completed with no
11 open items on September 15, 2011, however, as I also explained in my March
12 testimony, subsequent, significant WEC design errors identified by WEC now require
13 revisions to the ASER to incorporate changes to correct these design errors before
14 NRC review can be finalized. Resolution of these changes is now the critical path item
15 to complete NRC review and issue the COL for the Levy site.

16 As I also explained in my March testimony, WEC significantly delayed this
17 NRC review of the design changes by failing to timely provide information regarding
18 these design changes to the NRC. Due to WEC’s repeated failure to provide the
19 required information when promised by WEC, the NRC notified DEF that it could not
20 provide DEF with a new COLA review schedule until a firm schedule for resolving
21 the issues identified as a result of the WEC design errors has been established. DEF
22 continues to work with WEC to obtain the required information from WEC for the
23 NRC and to re-establish a schedule for the issuance of the COL for the Levy site. At

1 this time, however, DEF still does not have a formal NRC COLA review schedule
2 from the NRC.

3
4 **Q. Does DEF expect these design changes to be resolved and reviewed by the NRC?**

5 A. Yes. DEF continues to work with WEC to resolve the WEC design errors and to
6 obtain NRC review and approval of the design changes to address the WEC design
7 errors in the ASER. At this time, DEF believes it is reasonable for the Company to
8 continue its work to obtain the COL and DEF is working with WEC and the NRC to
9 obtain the FSER to reach that goal. The ACRS has also requested review of one of the
10 WEC design changes after completion of NRC review and issuance of the revised
11 ASER. At this time, DEF expects NRC review and issuance of the revised ASER in
12 time for the ACRS subcommittee review in September 2015 and ACRS full
13 committee review in October 2015.

14
15 **Q. What is the status of the formal hearing process for the Levy site COL?**

16 A. There are two parts to the NRC formal hearing process: (1) a contested hearing before
17 the NRC Atomic Safety and Licensing Board (“ASLB”), and (2) a mandatory hearing
18 before the NRC. The contested hearing was conducted in the fall of 2012 and on
19 March 26, 2013, the NRC ASLB issued its ruling in DEF’s favor on all issues.

20 The mandatory hearing for the COL is conducted by the NRC Commissioners.
21 The COL mandatory hearing, however, cannot commence until the FSER for the Levy
22 site is issued. As I explained above, DEF does not have a formal NRC schedule for the
23 COLA for the Levy site, but based on DEF’s current information in working with the

1 NRC to resolve all issues related to the Levy site FSER described generally above, the
2 Company currently expects the NRC to complete the mandatory hearing by second
3 quarter 2016. Exhibit No. ____ (CMF-8) to my direct testimony contains DEF's
4 estimate for the Levy COLA schedule.

5
6 **Q. What is the status of the environmental permits for the Levy COL?**

7 A. DEF expects the U.S. Army Corps of Engineers ("ACOE") to issue the Section 404
8 Permit for the Levy site some time in 2015. DEF is working with the ACOE and
9 waiting on ACOE review and finalization of the Wetland Mitigation Plan ("WMP")
10 for the Levy site. All other issues have been resolved. As a result, DEF expects to
11 receive the Section 404 permit for the Levy site from the ACOE this year.

12
13 **Q. When does DEF expect to receive the COL for Levy?**

14 A. The Company's current internal estimate is that the NRC will issue the Levy COL in
15 May 2016.

16
17 **Q. What are DEF's current plans for the Levy site if DEF receives the COL?**

18 A. DEF does not have a contract to build the Levy nuclear power plants and DEF has no
19 definite plan to construct them at this time. DEF currently plans to obtain the COL to
20 preserve the option of building new nuclear at the Levy site based on, among other
21 factors, energy needs, project costs, carbon regulation, natural gas prices, existing or
22 future legislative provisions for cost recovery, and the requirements of the COL. DEF

1 will reassess plans for the construction of nuclear power plants at the Levy site after
2 receipt of the COL.

3
4 **V. PROJECT MANAGEMENT AND COST CONTROL OVERSIGHT.**

5 **Q. Has the Company implemented any additional project management and cost**
6 **control oversight mechanisms for the LNP since your testimony was filed in**
7 **March 2015?**

8 A. No. The Company continues to utilize the Company policies and procedures that I
9 described in my March testimony to ensure that wind-down costs for the LNP are
10 reasonably and prudently incurred. The Company will continue to review policies,
11 procedures, and controls on an ongoing basis, and make revisions and enhancements
12 based on changing business conditions, organizational changes, and lessons learned, as
13 necessary. This process of continuous review of our policies, procedures, and controls
14 is a best practice in our industry and is part of our existing Levy project management
15 and cost control oversight. Additionally, the Senior Management Committee
16 (“SMC”) review occurs at least quarterly and more often when needed. Significant
17 financial decisions are also taken to the Transaction and Risk Committee (“TRC”) and
18 the Board of Directors, as necessary, pursuant to the Approval of Business
19 Transactions (“ABT”) policy. Finally, the Company continues to ensure that all
20 COLA-related costs are segregated out and not included in the NCRC.

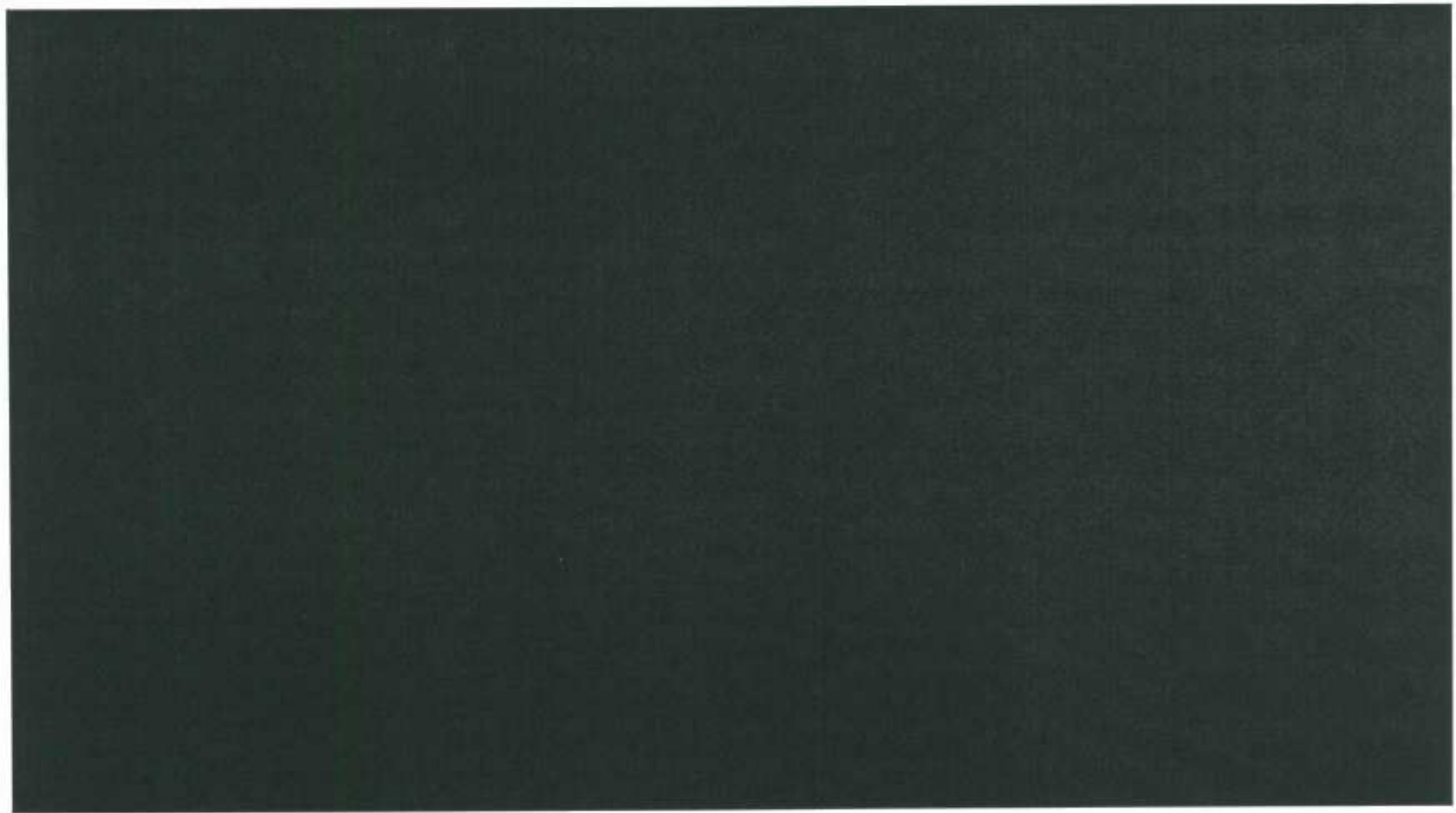
1 **VI. CONCLUSION.**

2 **Q. Has DEF acted in a reasonable and prudent manner to wind-down the Levy**
3 **project and disposition the Levy LLE?**

4 A. Yes. DEF reasonably dispositioned all Levy LLE in 2014 with the exception of the
5 VFDs. DEF will continue to review reasonable options for the sale or salvage of the
6 VFDs and will make the prudent disposition decision for the benefit of DEF's
7 customers. DEF intends to vigorously pursue and defend its rights under the EPC
8 Agreement in the current litigation with WEC. DEF's actions have been and will
9 continue to be reasonable and prudent for DEF and its customers.

10
11 **Q. Does this conclude your direct testimony?**

12 A. Yes it does.



Levy COL Estimated Schedule

Milestone	Current Estimated Schedule*
ACRS Review complete	November 2015
FSER	January 2016
Mandatory Hearing	March 2016
COL Issued	May 2016

* DEF estimate. As of the date of this filing the NRC has not issued an official revised Levy COL schedule.