



# **Review of Duke Energy Florida, LLC Project Management Internal Controls for Levy Nuclear Project**

May 2018

BY AUTHORITY OF  
The Florida Public Service Commission  
Office of Auditing and Performance Analysis



**Review of  
Duke Energy Florida, LLC  
Project Management  
Internal Controls  
for  
Levy Nuclear Project**

**Jerry Hallenstein  
Senior Analyst  
Project Manager**

**May 2018**

**By Authority of  
The State of Florida  
Public Service Commission  
Office of Auditing and Performance Analysis**

**PA-18-01-001**



# TABLE OF CONTENTS

<b>CHAPTER</b>	<b>Page</b>
<b>1.0 EXECUTIVE SUMMARY</b>	
1.1 Levy Nuclear Project at a Glance .....	1
1.2 Audit Execution.....	1
<b>2.0 LEVY NUCLEAR PROJECT</b>	
2.1 2013 Settlement Agreement .....	3
2.2 Disposition of LNP Long-Lead Equipment .....	3
2.3 2017 Settlement Agreement .....	3
2.4 Disposition of Combined Operating License .....	4



## 1.0 Executive Summary

### 1.1 Levy Nuclear Project Cancellation at a Glance

- ◆ On November 12, 2013, the Florida Public Commission (FPSC or Commission) approved a Settlement Agreement in Docket No. 130208-EI to terminate the engineering procurement and construction contract for the Levy Nuclear Project (LNP) and allow Duke Energy Florida, LLC (DEF) to continue its effort to obtain a Combined Operating License (COL) for LNP.
- ◆ Per the November 12, 2013 Settlement Agreement, DEF agreed to forego further recovery of COL costs within the Commission's Nuclear Cost Recovery Clause.
- ◆ In 2014, DEF developed a disposition plan for handling the Long-Lead Equipment initiated through the EPC contract, which was pursued along with related litigation.
- ◆ On October 20, 2016, the Nuclear Regulatory Commission (NRC) issued COLs for Levy Units 1&2.
- ◆ On October 25, 2017, the Commission approved a Second Settlement Agreement in Docket No. 20170009-EI that included a component to terminate the LNP and resolve any remaining issues.
- ◆ Per the October 25, 2017 Second Settlement Agreement, DEF agreed to forego recovery from customers of any additional costs related to the LNP, including project termination and license maintenance costs.
- ◆ In a November 1, 2017 letter to the NRC, DEF informed the agency of its intentions to file a request to terminate the COL for the LNP.
- ◆ In a January 25, 2018 letter to the NRC, DEF provided the agency with its LNP COL termination plan.

### 1.2 Audit Execution

From 2008 to 2017, Commission audit staff published annual audit reports to address the project internal controls and management oversight used by DEF in managing the Levy Units 1 and 2 nuclear project. These previous reports are available on the Commission website at [www.floridapsc.com](http://www.floridapsc.com).

The objective of the audit was to provide an independent account of project activities and to evaluate internal project controls. The primary standard used by Commission audit staff for review of DEF internal controls associated with the Levy Units 1&2 project is the Institute of

Internal Auditors' *Standards for the Professional Practice of Internal Auditing and Internal Control - Integrated Framework*. Staff's audit work is performed in compliance with Standards 2000 through 2500. This set of standards was developed by the Committee of Sponsoring Organizations (COSO) of the Treadway Commission.

The purpose of this report is to recap final LNP cancelation activities and conclude the annual project management audit process in light of DEF's decision to forego further recovery from customers of any additional costs related to the LNP.

The information in this report was gathered via staff review of document requests, interviews with DEF's regulatory staff, and documentation filed within Docket Nos. 20130208-EI, 20170009-EI, and 20180009-EI.



## 2.0 Levy Nuclear Project

### 2.1 2013 Settlement Agreement

On November 12, 2013, the Commission approved a Revised and Restated Stipulation and Settlement Agreement regarding the LNP in Docket No. 130208-EI. Per the Agreement, DEF terminated the Engineering, Procurement, and Construction (EPC) contract with Westinghouse for the LNP. The EPC termination came as a result of delays by the NRC in issuing COLs for new nuclear plants coupled with increased uncertainty in cost recovery.

The Agreement also supported DEF's continued pursuit of the LNP COL from the NRC. DEF further agreed to pursue the COL outside of the Commission's nuclear cost recovery clause.

### 2.2 Disposition of LNP Long Lead Equipment

As part of the wind-down activities for the LNP project, in 2014 DEF developed the LNP Long-Lead Equipment Disposition Plan for items procured through the Westinghouse EPC contract. After review and evaluation, DEF management disposed of all Levy items under the EPC contract, considering all options of re-use at another Duke Energy plant, sale to another AP1000 group owner or Westinghouse sub-contractor, or sale for salvage/scrap value.

After termination of the EPC contract in January 2014, litigation with Westinghouse continued regarding termination costs owed by DEF to Westinghouse. The District Court ruled on the Duke-Westinghouse EPC contract in December 2016, ordering DEF to pay a \$34 million termination fee. DEF anticipated seeking cost recovery in Docket 20170009-EI of the termination fee and current and pending litigation costs. However, as part of the 2017 Second Settlement Agreement discussed below, DEF agreed to write off all remaining and yet unrecovered LNP costs.

### 2.3 2017 Settlement Agreement

On October 25, 2017, the Commission approved a Second Revised and Restated Settlement Agreement supplanting the 2013 Revised and Restated Stipulation Agreement. The 2017 Agreement included a component to terminate the LNP and resolved all remaining issues in Docket No. 20170009-EI, as well as other outstanding issues in other DEF existing and prospective dockets before the Commission.

It stated, "The 2017 Agreement provides that DEF will not seek future recovery from retail customers of any combined operating licensing costs and associated carrying costs. DEF will write off all remaining but yet unrecovered LNP costs, whether incurred as of the date of this Commission's vote or to be incurred later." The Settlement further noted that after December

31, 2017, there will be no LNP-related costs of any type or nature whatsoever recovered from DEF's retail ratepayers.

## **2.4 Disposition of Combined Operating License**

The NRC issued COLs to DEF for LNP Units 1 and 2 on October 20, 2016. The termination of the LNP per the 2017 Second Settlement Agreement triggered a request to the NRC for termination of the COL for the LNP. In its November 1, 2017 letter, DEF informed the NRC that it no longer plans to move forward with building LNP Units 1 and 2 and would consequently submit an application for termination of the licenses. By subsequent letter dated January 25, 2018, DEF provided the NRC with its License Termination Plan and informally requested the termination to be completed by June 30, 2018.

DEF indicated to Commission audit staff that potential uses of the Levy site are being evaluated and at this time no decision has been made.