REDACTED

**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**



In re: Nuclear Cost Recovery Clause

Docket No. 140009-EI
Submitted for Filing: June 19, 2014

**DUKE ENERGY FLORIDA, INC.'S THIRD REQUEST FOR CONFIDENTIAL CLASSIFICATION REGARDING PORTIONS OF THE REVIEW OF DUKE ENERGY FLORIDA, INC.'S PROJECT MANAGEMENT INTERNAL CONTROLS FOR NUCLEAR PLANT UPRATE AND CONSTRUCTION PROJECTS AUDIT REPORT NO. PA-14-01-001**

Duke Energy Florida, Inc. ("DEF" or the "Company"), pursuant to Section 366.093, Florida Statutes, and Rule 25-22.006(3), Florida Administrative Code, requests confidential classification of portions of the final audit report of the Florida Public Service Commission Staff ("Staff") Auditors, the Review of Duke Energy Florida, Inc.'s Project Management Internal Controls for Nuclear Plant Uprate and Construction Project Audit Report No. PA-14-01-001 (the "Audit Report"). The Audit Report contains confidential contractual information, the disclosure of which would impair DEF's competitive business interests and violate DEF's confidentiality agreements with third parties and other financial and competitively sensitive information the disclosure of which would impair the Company's competitive business interests, including its ongoing asset disposition process. Accordingly these portions of the Audit Report meet the definition of proprietary confidential business information per section 366.093(3), Florida Statutes. An unredacted copy of the Audit Report is 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]." 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 ratepayers 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 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, that statute defines "[i]nternal auditing controls and reports of internal auditors," and "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. §§ 366.093(3)(b) & (e), Fla. Stat.

Portions of the Audit Report should be afforded confidential classification for the reasons set forth in the Affidavits of Mr. Christopher Fallon and Mr. Michael Delowery filed in support of DEF's Request, and for the following reasons.

### Levy Nuclear Project

Specifically, related to the sections of the Audit Report covering the Levy Nuclear Project ("LNP"), portions of the Audit Report contain confidential contractual data, including pricing agreements and other confidential contractual financial terms, the release of which would impair DEF's competitive business interests, and would further be a violation of the DEF's confidentiality agreements. See Fallon Affidavit, ¶¶ 3-5.

The Audit Report contains financial information related to work authorizations, contractual amendments, and other contractual data that is subject to confidentiality agreements between DEF and its vendors. In order to successfully obtain such contracts, however, DEF must be able to assure the other parties to the contracts that the sensitive business information contained therein, such as quantity and pricing terms, will remain confidential. The public disclosure of this information would allow other parties to discover how the Company analyzes risk options, scheduling, and cost, and would impair DEF's ability to contract for such goods and services on competitive and favorable terms. See Fallon Affidavit, ¶¶ 3-5.

Portions of the Audit Report reflect the Company's internal strategies for evaluating long lead equipment disposition options. If such information was disclosed to DEF's competitors and/or other potential suppliers and vendors, DEF's efforts to obtain competitive nuclear equipment and service options that provide economic value to both the Company and its customers could be compromised by the Company's competitors and/or suppliers changing their offers or negotiating strategies. DEF has kept confidential and has not publicly disclosed the proprietary terms 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 future 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 would be undermined. In addition, by the terms of these contracts, all parties, including DEF, have agreed to protect the proprietary and confidential information, defined to include pricing arrangements, from public disclosure. See Fallon Affidavit, ¶¶ 4-6.

**EPU Project**

With respect to the EPU project sections of the Audit Report, specifically, it contains confidential information and numbers regarding EPU assets, the disclosure of which would impair DEF's competitive business interests and violate DEF's confidentiality agreements with third parties and vendors; and other financial information the disclosure of which would impair the Company's competitive business interests. See Delowery Affidavit, ¶¶ 3-4.

The Company is requesting confidential classification of this information because the Audit Report contains proprietary and confidential information that would impair DEF's competitive business interests if publicly disclosed, as well as information concerning contractual data, the disclosure of which would impair the Company's ability to contract on favorable terms. See Delowery Affidavit, ¶¶ 3-4. In many instances, the disclosure of this information would violate contractual confidentiality provisions or is the result of recent negotiations with DEF vendors or is EPU asset financial information. Portions of these documents reflect the Company's internal strategies for evaluating projects and includes confidential and proprietary competitive business information and numbers, the release of which would place DEF's competitors at a relative competitive advantage, thereby harming the Company's and its customer's interests. See Delowery Affidavit, ¶¶ 3-4.

## CONCLUSION

DEF considers this information to be confidential and proprietary and continues to take steps to protect against its public disclosure, including limiting the personnel who have access to this information. If such information was disclosed to DEF's competitors and/or other potential suppliers, DEF's efforts to obtain competitive nuclear equipment and service options that provide economic value to both the Company and its customers could be compromised by the Company's competitors and/or suppliers changing their offers, consumption, or purchasing behavior within the relevant markets. If other third parties were made aware of confidential contractual terms that DEF has with other parties, they may offer less competitive contractual terms in future contractual negotiations. Without the Company's measures to maintain the confidentiality of sensitive terms in contracts with these nuclear contractors, the Company's efforts to obtain competitive contracts could be undermined to the detriment of DEF and its ratepayers. Delowery Affidavit ¶¶ 5-6; Fallon Affidavit, ¶¶ 5-6.

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

The competitive, confidential 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 Request, DEF has enclosed the following:

(1) A separate, sealed envelope containing one copy 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 document 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 the Audit Report No. PA-14-01-001 be classified as confidential for the reasons set forth above.

Respectfully submitted,

*<u>/s/ Blaise N. Gamba</u>*

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<u>CERTIFICATE OF SERVICE</u>

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 19th day of June, 2014.

*/s/ Blaise N. Gamba*
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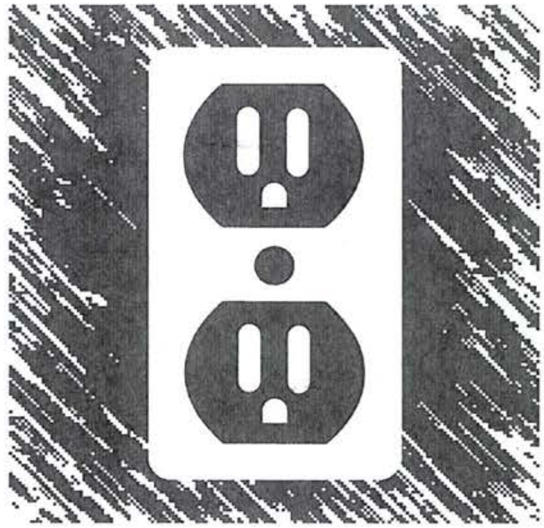
# DUKE ENERGY FLORIDA
# In re: Nuclear Cost Recovery Clause
# Docket 140009-EI
# Third Request for Confidential Classification

Exhibit B

Confidential DRAFT



Review of

# Duke Energy Florida's Project Management Internal Controls For Nuclear Plant Uprate and Construction Projects

June 2014

BY AUTHORITY OF

The Florida Public Service Commission
Office of Auditing and Performance Analysis

Confidential DRAFT

# Review of Duke Energy Florida's Project Management Internal Controls for Nuclear Plant Uprate and Construction Projects


**William "Tripp" Coston**
Public Utility Analyst IV
Project Manager

**R. Lynn Fisher**
Government Analyst II



**June 2014**

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

PA-14-01-001

potential wetland impacts from groundwater withdrawals. Specifically, the company was required to provide greater detail in areas of Secondary Wetland Impacts, Environmental Monitoring, and Mitigation on Public Lands. Commission audit staff noted in its June 2013 review that the company anticipated the U.S. Army Corps of Engineers' Clean Waters Act 404/10 Permit to be issued in mid-2013. However, due to continued requests for information by the USACE, the current approval timeline has shifted to late 2014.

#### 2.1.4 Asset Disposition

The company has worked with Westinghouse to dispose of long-lead construction components initiated under the EPC contract. The company has established a timeline for final disposition of all equipment and construction contracts by the end of 2014. The EPC contract establishes that Westinghouse is responsible for initiating and overseeing the procurement and construction of all AP1000 equipment and components. Therefore, DEF is required to work with Westinghouse on disposition of all current contracts. To date, DEF has finalized contract resolution with two vendors—Mangiarotti and Tioga/IBF.

Mangiarotti was under contract to provide four long lead components (Accumulator Tanks, Core Make-Up Tanks, Pressurizers, and PRHR Heat Exchangers) for the two units. The company made the decision to cancel the contract for these components rather than finalize construction and maintain or divest the equipment. Commission audit staff reviewed the analysis and documentation supporting this decision and did not identify issues with its process. The company management states that [redacted].

In late 2013, the company requested through Westinghouse that Tioga/IBF discontinue the fabrication of the Rector Coolant Loop piping. In January of 2014, DEF accepted an agreement to cancel this contract. The company's analysis determined that the agreement was the most reasonable option given the potential storage costs and prospects in the re-sale market. DEF's analysis determined that the decision to cancel the contract resulted in a [redacted] Commission audit staff reviewed the company's documents and did not identify issues with its process.

The company is still in negotiations with Westinghouse for the disposition of the remaining long-lead equipment. The company anticipates this process will continue through the remainder of 2014 and into 2015. DEF states it will continue to analyze all options to determine the best course of action for the remaining equipment.

## 2.2 Levy Project Controls and Oversight

#### 2.2.1 Duke Energy's Nuclear Development Organization

In 2013, the company made minor changes to its Nuclear Development group. This group was formed in 2012 with the merger of Duke Energy and Progress Energy. Fundamentally, the organizational FTEs have remained consistent during the period. However, the company has more recently reduced personnel in the areas of Licensing, Operational Readiness and Project Management. The company states that the staffing will remain consistent through 2015. The organization allocates staffing resources to the Levy Project as necessary. Overall, the company states that the reduction in staffing hours billed to the Levy Project during 2013 are due to reduced activities related to the project. The company anticipates that this trend will continue.

### 2.2.2 Internal Audits And Quality Assurance Reviews

No internal audits of the Levy project were conducted during 2013 by DEF's Internal Audit Services Department. As in past years, the DEF's Audit Services Department employs a planning process to identify those areas to be audited in the upcoming year based on relative risk. As of this report, the company's Audit Services Department does not plan to conduct any Levy-specific audits in 2014, based on the perceived low-risk of the current Levy COL-specific project plan.

The Nuclear Oversight Quality Assurance group completed or supported eleven surveillance and oversight reviews of Levy activities during 2013. These reviews addressed areas such as long-lead equipment construction, contractor activities, and engineering development; they included a combination of in-house evaluations and joint Nuclear Procurement Issues Committee (NUPIC) assessments. Commission audit staff notes that there were not significant issues identified within these reports that impact the current project scope.

### 2.2.3 Changes to Contracts and Contract Management

The company stated that due to cancellation of the Levy project, cost estimates were adjusted accordingly. Updated estimates were provided in DEF's May 2014 NCRC testimony. However, COL-related cost estimates were not included in testimony, pursuant to the 2013 Settlement Agreement excluding those costs. The company states that the remaining cost estimates are necessary to manage long-lead equipment and other costs associated with the LNP EPC Agreement. Additionally, DEF notes that any additional credits or expenditures related to the cancellation of the EPC contract are unknown at this time.

### 2.2.4 Risk and Mitigation

DEF's LNP project management continues to monitor the risks associated with completing the receipt of the COL. The team continues to evaluate, identify, review, and monitor project risks and mitigation strategies via project team involvement. The company documents and monitors these risks through a risk register oversight process. To date, the project team has identified risks associated with the NRC Waste Confidence process and AP1000 design issues. Audit staff reviewed the risk assessment and mitigation strategies for the period and determined that the company continues to monitor accordingly.

### 2.2.5 Changes to Contracts and Contract Management

In 2013, the company initiated or modified 14 contracts. These contracts and work authorizations were necessary to continue the efforts to support the COL application and process and the necessary environmental approvals. In total, the company initiated an additional [redacted] million in contracts to support these efforts. Overall, the company spent approximately [redacted] million on these efforts in 2013. Audit staff reviewed contract documentation to ensure that the company complied with its contract procedures, and found no issues.

implementation, closeout activities, estimated contract and purchase order cancellation, and asset preservation costs. After the completion of 2013 activities, the actual EPU project costs were $11.2 million.

### 3.1.3 Establishment of the Decommissioning Transition Organization and Investment Recovery Project

By letter dated February 20, 2013, DEF notified the NRC that it had ceased operations at CR3, and all fuel had been permanently removed from the reactor vessel. DEF then established the Decommissioning Transition Organization to manage the future decommission of CR3. One of the first tasks for the organization was to develop a Post-Shutdown Decommissioning Activities Report to submit to the NRC.

An important task of the Decommissioning Transition Organization is to dispose of the remaining plant assets. To complete this process, an Investment Recovery Project (IRP) organization was established in August 2013. The IRP team is responsible for plant-wide disposition of both CR3 and EPU project assets. The IRP organization is independent of the Decommissioning Transition Organization but works closely with it to identify, re-deploy, and dispose of surplus assets.

Procedure AI-9010, titled *Conduct of CR3 Investment Recovery*, governs the disposition of CR3 and EPU assets through the IRP. This procedure outlines requirements for asset pricing reviews and approvals, record keeping, and disposition of CR3 assets during decommissioning. In addition, it provides guidance for the dispositioning of assets both within and outside the company and its affiliates. Asset disposition documents are completed for both CR3 and EPU assets to ensure proper credit is returned to each project.

In February 2014, DEF implemented the CR3 IRP Project Execution Plan. The plan provides guidance regarding the IRP scope, schedule, costs, responsibilities, and project implementation. According to the plan, the primary objective is to maximize the return to customers and shareholders on CR3 surplus assets through asset identification, redeployment, and disposition. The plan notes that IRP disposition activities are scheduled to be completed in April 2015, and the total project is estimated to cost approximately [redacted] a portion of which will be EPU related.

### 3.1.4 Investment Recovery Process for CR3 Asset Disposition

The Project Execution Plan documents the systematic disposal process and timeline for completing asset disposition. The Baseline Schedule supports the timing for completing major milestones within the project. Critical dates for beginning and completing key project activities are also forecast to measure project performance.

Large EPU components will be dispositioned separately due to their unique design, use, and application. According to the Project Execution Plan, marketing of these components through internal transfer began in October 2013, and was scheduled to complete in April 2014. The marketing of these large components through external means commenced in November 2013 and is scheduled to complete in August 2014. These components include:

- Point of Discharge Cooling Tower,
- Low Pressure Turbines,
- Moisture Separator Reheaters,
- High Pressure Turbines,

- Main Generator and Exciter, and
- Feed Water Heaters

DEF confirmed that the Point of Discharge Cooling Tower bid, begun in December 2013, was completed in April 2014. The bid event was finalized in February 2014, proposals were reviewed and evaluated, and final negotiations were conducted with the high bidder. Negotiations concluded on April 30, 2014, with the purchase of the entire POD package. DEF stated that the revenues from the sale will be returned to the POD project and credited to customers through the Nuclear Cost Recovery Clause.

The Project Execution Plan states that large asset distribution efforts have historically returned a fractional percentage of the overall purchase price of assets. Therefore, it is advantageous to first seek an internal transfer of useful equipment, and then use other alternatives. In order of priority after the use of the internal transfer, other options used by the IRP are: market to other utilities, use third-party resellers, and lastly sell for salvage and scrap value.

The benefits of internal transfer versus external dispositioning can be seen in an example of two equipment dispositions completed during 2013 and early 2014. Two pieces of EPU equipment, with an original purchase value greater than $50,000, were dispositioned by the company. One item was transferred internally to a Duke affiliate, in December 2013, and the other was sold externally in March 2014. The internally transferred item was a 750 KVA transformer disposed of for 88.3 percent of the original purchase value. The externally dispositioned 7.5 Ton Gantry Crane sold for 13 percent of the original purchase value. This illustrates why DEF's first choice for dispositioning surplus assets is through internal transfer.

The disposition of less-specialized EPU assets is being completed through six "tranches" of equipment. Each tranche represents a different value range of equipment. **Exhibit 2** provides a summary of the six asset tranches for the EPU project.

| EPU Asset Tranches for Disposition | | | |
|---|---|---|---|
| Criteria | Dollar Value | Items | Amount |
| Tranche 1 | >$10,000 | 91 | [redacted] |
| Tranche 2 | >$5,000 <$10,000 | 5 | |
| Tranche 3 | >$2,500 <$5,000 | 7 | |
| Tranche 4 | >$1,000 <$2,500 | 1 | |
| Tranche 5 | >$500 <$1,000 | 3 | |
| Tranche 6 | <$500 | 0 | |
| Total | | 107 | |

**EXHIBIT 2** *Source: DEF Response to DR-1.13*

Tranche 1 has the largest number of items by far and is the largest in total value. However, IRP reported that no EPU equipment from any tranche has been dispositioned to date. Investment Recovery management noted that miscellaneous small equipment, a storage tent, and a carrier container of small tools and consumables were dispositioned, totaling approximately $45,000.

IRP has experienced challenges in matching equipment uniquely designed for the CR3 EPU project with DEF affiliates and other potential electric utility customers. The market for this specialized equipment is greatly limited by the number of potential buyers having operational

**DUKE ENERGY FLORIDA DOCKET 140009-EI**
**Third Request for Confidential Classification**
**Confidentiality Justification Matrix**
**ATTACHMENT C**

| DOCUMENT | PAGE/LINE/ COLUMN | JUSTIFICATION |
|---|---|---|
| | | |
| Review of Duke Energy Florida's Project Management Internal Controls for Nuclear Plant Uprate and Construction Projects, PA-14-01-001, June 2014 | Page 7, 3rd paragraph, 5th line, last nine words, last line, all words, 4th paragraph, 5th line, last word, 6th line, all words except last two on line; Page 8, last paragraph, 4th line, second word, 5th line second word; Page 10, 5th paragraph, 6th line, fourth and fifth word from end; Page 11, Exhibit 2 Table, all information in last column exclusive of heading | §366.093(3)(d), Fla. Stat. The document in question contains confidential contractual information, the disclosure of which would impair PEF's efforts to contract for goods or services on favorable terms.<br><br>§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. |
| | | |