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P R O C E E D I N G S

1
2 (Transcript follows in sequence from Volume
3 1.)

4 **MR. YOUNG:** Mr. Chairman, at this time staff
5 will request that its prefiled testimony and exhibits in
6 the FPL portion of the proceeding be moved into the
7 record. And for clarity of the record, staff would like
8 the prefiled testimony of Betty Maitre be moved into the
9 record as though read. In addition, staff notes that
10 Ms. Maitre, Witness Maitre has Exhibit BM-1, which has
11 been identified as Exhibit Number 86 on the
12 Comprehensive Exhibit List, and staff requests that that
13 exhibit be moved into the record.

14 **COMMISSIONER BRISÉ:** Okay. So we'll move
15 Exhibit 86 or BM-1 into the record.

16 (Exhibit 86 admitted into the record.)

17 **MR. YOUNG:** All right. Second, staff would
18 like to -- staff would request that the prefiled
19 testimony of Gabriela Leon be moved into the record as
20 though read.

21 **COMMISSIONER BRISÉ:** Okay. We'll move the
22 testimony of Gabriela Leon into the record as though
23 read.

24 **MR. YOUNG:** In addition, staff would note that
25 Ms. -- Witness Leon has Exhibit GL-1, which has been

1 identified as Exhibit Number 87 on the Comprehensive
2 Exhibit List, and staff requests that that exhibit be
3 moved into the record.

4 **COMMISSIONER BRISÉ:** Okay. We will move
5 GL-1 into the record with a hearing ID of 87.

6 (Exhibit 87 admitted into the record.)

7 **MR. YOUNG:** And, finally, Mr. Chairman, for
8 the FPL portion of the hearing staff would, staff would
9 like to have the prefiled -- joint -- excuse me. Staff
10 would like to have the joint prefiled testimony of David
11 Rich and Jerry Hallenstein moved into the record as
12 though read.

13 **COMMISSIONER BRISÉ:** Okay. We will move the
14 prefiled testimony of David Rich and Jerry Hallenstein
15 into the record as though read.

16 **MR. YOUNG:** In addition, staff would note that
17 both Witness Rich and Hallenstein have Exhibit RH-1,
18 which has been identified as Exhibit Number 88 on the
19 Comprehensive Exhibit List, and request that that
20 exhibit be moved into the record.

21 **COMMISSIONER BRISÉ:** Okay. We move -- Exhibit
22 88 shall be moved into the record.

23 (Exhibit 88 admitted into the record.)

24 Okay. Anything further from staff with
25 respect to exhibits?

1 **MR. YOUNG:** Yes, Mr. Chairman. Staff would
2 first like to request that it's witnesses in the FPL
3 portion of the hearing be excused.

4 **COMMISSIONER BRISÉ:** Sure. They -- the
5 witnesses are excused. And, FPL, would you like the
6 same?

7 **MS. CANO:** Yes, please.

8 **COMMISSIONER BRISÉ:** All right.

9 **MS. CANO:** Thank you.

10 **COMMISSIONER BRISÉ:** So FPL's witnesses have
11 been excused as well.

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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION
COMMISSION STAFF
DIRECT TESTIMONY OF BETY MAITRE
DOCKET NO. 140009-EI
JUNE 20, 2014

Q. Please state your name and business address.

A. My name is Bety Maitre and my business address is 3625 N.W. 82nd Ave., Suite 400, Miami, Florida, 33166.

Q. By whom are you presently employed and in what capacity?

A. I am employed by the Florida Public Service Commission (FPSC or Commission) as a Public Utility Analyst III in the Office of Auditing and Performance Analysis.

Q. Briefly review your educational and professional background.

A. I have a Bachelor of Science degree with a major in Accounting from Florida Agricultural and Mechanical University and a Master of Accounting with a major in Accounting Information Systems from Florida State University. I was hired as a Regulatory Analyst II by the Commission in August of 2008.

Q. Please describe your current responsibilities.

A. Currently, I am a Public Utility Analyst III. I conduct utility audits of manual and automated accounting systems for historical and forecasted data.

Q. Have you presented testimony before this Commission or any other regulatory agency?

A. I filed testimony in Florida Power & Light Company's Nuclear Docket Nos. 120009-EI and 130009-EI.

Q. What is the purpose of your testimony today?

A. The purpose of my testimony is to sponsor the staff audit report of Florida Power

1 & Light Company (FPL or Utility) which addresses the Utility's filing in Docket No.
2 140009-EI, Nuclear Cost Recovery Clause (NCRC) for costs associated with its nuclear
3 uprate projects. We issued an audit report in this docket for the nuclear uprate projects on
4 June 5, 2014. This audit report is filed with my testimony and is identified as Exhibit
5 BM-1.

6 **Q. Was this audit prepared by you or under your direction?**

7 **A.** Yes, it was prepared under my direction.

8 **Q. Please describe the work you performed in these audits.**

9 **A.** I have broken the audit work into the following categories.

10 Rate Base

11 We reconciled the amounts for Plant in Service from the Orders to FPL's books and the
12 Utility's filing, Appendix A and B. Depreciation is not recorded on the asset level and
13 does not reconcile to the general ledger. Therefore, we recalculated accumulated
14 depreciation and depreciation expense using Commission approved rates from Docket
15 No. 090130-EI and actual Plant in Service. Plant in Service, Accumulated Depreciation,
16 and Depreciation Expense were compared to the Commission Base Rate change Orders.

17 Construction Work in Progress (CWIP)

18 We traced CWIP additions in Schedule T-6 to the general ledger and judgmentally
19 selected a sample for testing. We verified that additions had appropriate supporting
20 documentation, were related to the Extended Power Uprate (EPU) project, and were
21 charged to the correct accounts.

22 Recovery

23 We agreed the amount collected on Schedules T-3, T-3A, T-4, and Appendix C to the
24 NCRC jurisdictional amount approved in Order No. PSC-12-0650-FOF-EI, and to the
25 Capacity Cost Recovery Clause in Docket No. 140001-EI.

1 Expense

2 We traced expenses in the filing to the general ledger. We selected a sample of 2013
3 Operation & Maintenance (O&M) expenses for testing. The source documentation for
4 selected items was reviewed to ensure the expense was related to the EPU project and that
5 the expense was charged to the correct accounts.

6 Carrying Cost on Deferred Tax Adjustment

7 We traced the projected and estimated True-Up adjustments to prior NCRC Commission
8 Orders. We traced the beginning balances included in the schedule to the prior docket.
9 We reconciled the monthly construction cost to the supporting schedules. We traced the
10 Allowance for Funds Used During Construction (AFUDC) rate applied by the Utility to
11 the rate approved in Order Nos. PSC-10-0470-PAA-EI, issued July 23, 2010, in Docket
12 No. 100133-EI and PSC-13-0493-FOF-EI, issued October 18, 2013, in Docket No.
13 130009-EI. We recalculated Schedule T-3A and verified the True-up.

14 Separate and Apart Process

15 We reviewed FPL's testimony and procedures related to the separate and apart process.
16 We used the separate and apart procedures to determine whether CWIP and O&M sample
17 items were related to the EPU project.

18 True-up

19 We recalculated the True-Up as of December 31, 2013, using the Commission approved
20 beginning balance as of December 31, 2012.

21 Analytical Review

22 We compared 2013 to 2012 costs and used the information to judgmentally select the
23 sample.

24 **Q. Please review the audit findings in this audit report, Exhibit BM-1.**

25 **A.** There were no findings in this audit.

1 **Q. Does that conclude your testimony?**

2 **A.** Yes.

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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

COMMISSION STAFF

DIRECT TESTIMONY OF GABRIELA LEON

DOCKET NO. 140009-EI

June 20, 2014

Q. Please state your name and business address.

A. My name is Gabriela Leon and my business address is 3625 N.W. 82nd Ave., Suite 400, Miami, Florida, 33166.

Q. By whom are you presently employed and in what capacity?

A. I am employed by the Florida Public Service Commission (FPSC or Commission) as a Professional Accountant Specialist in the Office of Auditing and Performance Analysis.

Q. Briefly review your educational and professional background.

A. I have a Bachelor of Science degree with a major in Accounting from Florida International University. I have been employed by the Commission since December 1987.

Q. Please describe your current responsibilities.

A. Currently, I am a Professional Accountant Specialist, with the responsibilities of planning and conducting utility audits of manual and automated accounting systems for historical and forecasted data.

Q. Have you presented testimony before this Commission or any other regulatory agency?

A. No. I have not testified before this Commission or any other regulatory agency.

Q. What is the purpose of your testimony today?

A. The purpose of my testimony is to sponsor the staff audit report of Florida Power

1 & Light Company (FPL or Utility) which addresses the Utility's filing in Docket No.
2 140009-EI, Nuclear Cost Recovery Clause (NCRC) for costs associated with its Nuclear
3 Units - Turkey Point Units 6 & 7 (Turkey Point 6 & 7). We issued an audit report in this
4 docket for these units on May 29, 2014. This audit report is filed with my testimony and
5 is identified as Exhibit GL-1.

6 **Q. Was this audit prepared by you or under your direction?**

7 **A.** Yes, it was prepared under my direction.

8 **Q. Please describe the work you performed in these audits.**

9 **A.** Our overall objective in this engagement was to verify that the Utility's 2013 NCRC
10 filings for the proposed Turkey Point 6 & 7 in Docket No. 140009-EI are consistent with
11 and in compliance with Section 366.93 F.S., and Rule 25-6.0423, F.A.C. To satisfy the
12 overall objective we performed the following procedures.

13 Construction Work in Progress (CWIP)

14 We sampled and verified the monthly pre-construction expenditures and traced to
15 invoices and other supporting documentation including contracts. We verified various
16 sample items to purchase orders for contracts over \$250,000. We verified a sample of
17 salary expenses and agreed to time sheets. We recalculated the respective overheads. We
18 verified affiliate charges by comparing the cost rate to a market rate to determine that the
19 lower rate was used. We performed an overall calculation of the affiliate rate per hour
20 including overheads, multiplied by the total hours charged to determine the
21 reasonableness of the amount in the filing. We agreed the calculation of the jurisdictional
22 factor to the Utility's documentation. We recalculated Schedule T-6.

23 Recovery

24 We agreed the amount collected on Schedules T-1 to the NCRC jurisdictional amount
25 approved in Order No. PSC-12-0650-FOF-EI, and to the Capacity Cost Recovery Clause

1 in Docket No. 140001-EI.

2 Carrying Cost on Deferred Tax Adjustment

3 We recalculated Schedule T-3A. We traced the projected and estimated True-Up amount
4 to prior NCRC Orders. We reconciled the monthly recovered costs to the supporting
5 schedules in the filing. We traced the Allowance for Funds Used During Construction
6 (AFUDC) rate applied to the rates approved in Order Nos. PSC-10-0470-PAA-EI, issued
7 July 23, 2010, in Docket No. 100133-EI and PSC-13-0493-FOF-EI, issued October 18,
8 2013, in Docket No. 130009-EI.

9 Other Issues

10 We recalculated Schedule T-2. We traced the projected and estimated true-up amounts to
11 prior NCRC Orders. We traced the beginning balances included in the schedule to the
12 prior docket. We reconciled the monthly pre-construction costs to the supporting
13 schedules in the filing. We traced the AFUDC rate applied to the rates approved in Order
14 Nos. PSC-10-0470-PAA-EI and PSC-13-0493-FOF-EI.

15 True-up

16 We recalculated the True-Up as of December 31, 2013, using the Commission approved
17 beginning balance as of December 31, 2012.

18 Analytical Review

19 We compared 2013 to 2012 costs to determine if there were any material changes or
20 inconsistencies.

21 **Q. Please review the audit findings in this audit report, Exhibit GL-1.**

22 **A.** There were no findings in this audit.

23 **Q. Does that conclude your testimony?**

24 **A.** Yes.

25

1 **BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

2 **COMMISSION STAFF**

3 **DIRECT JOINT TESTIMONY OF**

4 **DAVID RICH AND JERRY HALLENSTEIN**

5 **DOCKET NO. 140009-EI**

6 **JUNE 20, 2014**

7

8 **Q. Mr. Rich, please state your name and business address.**

9 A. My name is David Rich. My business address is 2540 Shumard Oak Boulevard,
10 Tallahassee, Florida 32399-0850.

11 **Q. By whom are you employed?**

12 A. I am employed as a Public Utility Analyst IV by the Florida Public Service
13 Commission (Commission) in the Office of Auditing and Performance Analysis.

14 **Q. What are your current duties and responsibilities?**

15 A. I perform audits and investigations of Commission-regulated utilities, focusing on the
16 effectiveness of management and company practices, adherence to company procedures and
17 the adequacy of internal controls. Mr. Hallenstein and I jointly conducted the 2014 audit of
18 Florida Power & Light Company's (FPL) project management internal controls for the nuclear
19 plant uprate project at the St. Lucie and Turkey Point sites and the new construction project at
20 the Turkey Point site. I participated in similar audits of FPL project management controls for
21 uprate and new construction projects from 2009 through 2013 and filed those reports as
22 testimony in the appropriate dockets.

23 **Q. Please describe your educational and relevant experience.**

24 A. In 1978, I graduated from the United States Military Academy at West Point with a
25 Bachelor of Science degree and a concentration in Engineering. A Masters of Arts degree in

1 National Security Affairs from the Naval Postgraduate School followed in 1987. I am also a
2 graduate of the Republic of Korea Army Command and General Staff College in 1989 and the
3 United States Army Command and General Staff College in 1990. My relevant work
4 experience includes eleven years with the Florida Public Service Commission in management
5 and controls auditing, utility performance analysis, process reviews, and trend analysis. I have
6 participated in numerous audits of utility operations, processes, systems, and controls which
7 culminated in a written audit report similar to the one attached as an exhibit to this testimony.

8 **Q. Have you filed testimony in any other dockets before the Commission?**

9 A. Yes. I have previously filed testimony related to the FPL projects in Docket Nos.
10 090009-EI, 100009-EI, 110009-EI, 120009-EI, and 130009-EI.

11 **Q. Mr. Hallenstein, please state your name and business address.**

12 A. My name is Jerry Hallenstein. My business address is 2540 Shumard Oak Boulevard,
13 Tallahassee, Florida 32399-0850.

14 **Q. By whom are you employed?**

15 A. I am employed by the Commission as a Senior Analyst, within the Office of Auditing
16 and Performance Analysis.

17 **Q. What are your current duties and responsibilities?**

18 A. I perform audits and investigations of Commission-regulated utilities, focusing on the
19 effectiveness of management and company practices, adherence to company procedures, and
20 the adequacy of internal controls. Mr. Rich and I jointly conducted the 2014 audit of FPL's
21 project management internal controls for the nuclear plant uprate project at the St. Lucie and
22 Turkey Point sites and the new construction project at the Turkey Point site.

23 **Q. Please describe your educational and relevant experience.**

24 A. I earned a Bachelor of Science in Finance from Florida State University in 1985. I
25 have worked for the Commission for twenty-four years conducting operations audits and

1 investigations of regulated utilities. Prior to my employment with the Commission, I worked
2 for five years at Ben Johnson Associates, a consulting firm that specializes in providing
3 economic and research services to public utility commissions across the country.

4 **Q. Have you filed testimony in any other dockets before the Commission?**

5 A. Yes. I filed similar testimony in Docket Nos. I20009-EI and 130009-EI. These
6 testimonies addressed the audits of Duke Energy Florida's project management internal
7 controls for the nuclear plant uprate at Crystal River Unit 3 and for the Levy Nuclear Project.
8 Additionally, I filed testimony in Docket 981488-TI, regarding the billing and sales practices
9 of Accutel Communications, a reseller of telecommunications services.

10 **Q. Please describe the purpose of your testimony in this docket.**

11 A. Our testimony presents the attached confidential audit report entitled *Review of Florida*
12 *Power & Light Company's Project Management Internal Controls for Nuclear Plant Uprate*
13 *and Construction Projects* (Exhibit RH-1). This audit is completed each year to assist with
14 the

15 Commission's annual evaluation of nuclear cost recovery filings. The audit assesses the
16 internal controls and management oversight of the FPL nuclear projects.

17 **Q. Please summarize the areas examined by your review of controls.**

18 A. We examined the organizations, processes, and controls used by FPL to execute the
19 Extended Power Uprate project at St. Lucie Units 1 & 2 and Turkey Point Units 3 & 4 and the
20 construction of the new Units 6 & 7 at Turkey Point. Internal controls examined annually
21 include: project planning, management and organization, cost and schedule, contractor
22 selection and management, auditing, and quality assurance.

23 **Q. Are you sponsoring any exhibits?**

24 A. Yes, our completed audit report is attached as Exhibit Number RH-1. The audit
25 report's observations are summarized in the Executive Summary chapter for both the

1 | Extended Power Uprate project and the Turkey Point 6 & 7 new construction project.

2 | **Q. Does this conclude your testimony?**

3 | A. Yes.

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1 **MR. YOUNG:** In addition, Mr. Chairman, to the
2 FPL portion of the hearing, staff would like to identify
3 as an exhibit titled FPL's Errata Sheets, which has been
4 distributed to you and the parties. Staff would like to
5 request that this exhibit be marked for identification
6 purposes.

7 **COMMISSIONER BRISÉ:** So are we at 93?

8 **MR. YOUNG:** I think so, sir. Yes.

9 **COMMISSIONER BRISÉ:** Okay. So you're asking
10 for 93 to be the FPL errata sheet to be moved into the
11 record?

12 **MR. YOUNG:** Yes, sir.

13 **COMMISSIONER BRISÉ:** Okay. Are there any
14 objections? Okay. Not seeing any, so we will move
15 93 into the record.

16 (Exhibit 93 marked for identification and
17 admitted into the record.)

18 **MR. YOUNG:** In addition, there are some
19 stipulated staff exhibits for the FPL portion of the
20 hearing.

21 **COMMISSIONER BRISÉ:** Sure.

22 **MR. YOUNG:** Staff would like to address its
23 stipulated exhibits as identified in the Comprehensive
24 Exhibit List.

25 The first -- first staff would like to turn

1 your attention to Exhibit Number 89.

2 **COMMISSIONER BRISÉ:** Okay.

3 **MR. YOUNG:** Staff notes that FPL has
4 identified errors within FPL's response to staff's
5 second set of interrogatories number 6 which are
6 contained in Exhibit 89. FPL has prepared an exhibit
7 containing the corrected responses, which have been
8 previously provided to the parties. It is my
9 understanding that FPL requests that the corrections to
10 Exhibit Number 89 be given a separate exhibit number and
11 moved into the record. Thus, Mr. Chairman, staff
12 requests that Exhibit Number 89, as contained into the
13 Comprehensive Exhibit List, be moved into the record at
14 this time.

15 **COMMISSIONER BRISÉ:** Okay. So we'll move
16 Exhibit 89 into the record at this time, seeing no
17 objections.

18 **MR. YOUNG:** All right.

19 (Exhibit 89 admitted into the record.)

20 **MS. CANO:** At this time FPL would ask that the
21 corrected response to staff's second set of
22 interrogatories number 6 be marked as hearing Exhibit
23 Number 94.

24 As Mr. Young mentioned, this has been
25 previously provided to the parties, but we do have

1 copies here to pass out if, if the Commission would like
2 us to go ahead and do that.

3 **COMMISSIONER BRISÉ:** Okay. I don't know if
4 the Commissioners have copies. No. Okay. So, yes, if
5 you could make those available.

6 Okay. So this would be Exhibit 94. All
7 right. So we want to move the revised response to
8 staff's second set of interrogatories number 6 into the
9 record, and I don't think we have any objections. Okay.
10 So it's moved into the record.

11 (Exhibit 94 admitted into the record.)

12 **MR. YOUNG:** With that, Mr. Chairman, staff
13 would also like to request that stipulated exhibits
14 numbered 90, 91, and 92 be entered into the record at
15 this time.

16 **COMMISSIONER BRISÉ:** Okay. At this time we
17 will move Exhibits 90, 91, and 92 into the record,
18 seeing no objections. Okay. I'm not hearing any or
19 seeing any, so they are moved into the record.

20 (Exhibits 90 through 92 admitted into the
21 record.)

22 **MR. YOUNG:** All right. Moving on to
23 stipulation of issues. With respect to Category 2
24 stipulations, you have been provided two separate
25 dockets for FPL and Duke entitled "Proposed Category 2

1 Stipulated Issues." Proposed Category 2 stipulated
2 issues are stipulations where the utility and staff
3 agrees to a position and the Intervenors take no
4 position. Staff would like to have each proposed
5 Category 2 stipulated issue list identified as separate
6 exhibits. Mr. Chairman, staff would request that the
7 FPL proposed Category 2 stipulations be marked for
8 identification purposes as Exhibit Number 95.

9 **COMMISSIONER BRISÉ:** Okay. So we well mark
10 the Category 2 stipulations as Exhibit Number 95.

11 **MR. YOUNG:** For FPL.

12 **COMMISSIONER BRISÉ:** For FPL. Correct. Thank
13 you.

14 (Exhibit 95 marked for identification.)

15 **MR. YOUNG:** Also, staff requests that DEF's
16 proposed Category 2 stipulated issued -- stipulation
17 list be marked for identification purposes as Number 96.

18 **COMMISSIONER BRISÉ:** Okay. Thank you.

19 (Exhibit 96 marked for identification.)

20 All right. Are we seeking to move 95 into the
21 record at this time?

22 **MR. YOUNG:** Yes, sir. Staff requests that
23 Exhibit 95 be moved into the record at this time.

24 **COMMISSIONER BRISÉ:** Okay. So we will move
25 Exhibit 95 into the record at this time.

1 Just before we move it in, Commissioner
2 Balbis.

3 **COMMISSIONER BALBIS:** Thank you, Commissioner
4 Brisé. At the appropriate time I do have two questions
5 on Duke Energy's proposed Category 2 stipulations.

6 **COMMISSIONER BRISÉ:** All right. So let's move
7 it in with 95, which is FPL at this time, and so those
8 will be moved into the record. Okay?

9 (Exhibit 95 admitted into the record.)

10 And are we -- I suppose that we will deal with
11 96 a little bit later, or do we need to deal with that
12 right now?

13 **MR. YOUNG:** At the Chairman's pleasure.

14 **COMMISSIONER BRISÉ:** Okay. So let's go ahead
15 and address 96.

16 **MR. YOUNG:** We'll move Exhibit 96 into the
17 record.

18 **COMMISSIONER BRISÉ:** All right. We'll move
19 96 into the record at this time, but let's see what the
20 questions are.

21 (Exhibit 96 admitted into the record.)

22 **COMMISSIONER BALBIS:** Yeah. And procedurally
23 I don't know when we formally make a decision on those
24 stipulated issues. So if there's a separate point when
25 we're doing that, I'll hold my questions till then.

1 **COMMISSIONER BRISÉ:** Sure.

2 **COMMISSIONER BALBIS:** But if not, I'll be more
3 than happy to do so.

4 **COMMISSIONER BRISÉ:** Okay. My understanding
5 is that right now we're just moving them into the
6 record. We're not making a decision on the, on the
7 content of it. Okay?

8 **MR. YOUNG:** Yes.

9 **COMMISSIONER BRISÉ:** Okay.

10 **MR. YOUNG:** And now we can address issue
11 number -- I mean, excuse me, Exhibit Number 95.

12 **COMMISSIONER BRISÉ:** Okay.

13 **COMMISSIONER BROWN:** Mr. Chairman?

14 **COMMISSIONER BRISÉ:** Sure, Commissioner Brown.

15 **COMMISSIONER BROWN:** Mr. Chairman, these three
16 issues, Issue 11, 15, and 16, none of the parties
17 contested these issues. The remaining substantive
18 issues will be decided based on the evidence in the
19 record in October. With that, I would move approval of
20 FPL's Category 2 proposed stipulations on Issues 11, 15,
21 and 16.

22 **COMMISSIONER BALBIS:** Second.

23 **COMMISSIONER BRISÉ:** Okay. It's been moved
24 and seconded.

25 All in favor, say aye. Aye.

1 (Vote taken.)

2 All right. By your vote, we have approved the
3 Category 2 stipulations for FPL. Okay. Anything else,
4 Mr. Young?

5 **MR. YOUNG:** Yes. At this time staff
6 recommends that the Commission rule on the proposed
7 Category 2 stipulations, stipulated issues for DEF at
8 this time.

9 **COMMISSIONER BRISÉ:** Okay. So we will take up
10 those issues at this time. Commissioner Balbis.

11 **COMMISSIONER BALBIS:** Thank you, Mr. Chairman.
12 I have a few questions for the parties on
13 Issue 1, specifically for the parties' position on it.
14 And, Mr. Rehwinkel, perhaps you can clarify this. The
15 position for Issue 1 specifically addresses Duke's
16 project controls for the management, contracting,
17 accounting, and cost oversight, and not individual
18 actions during that time. Is that your understanding as
19 well?

20 **MR. REHWINKEL:** That is correct. That's our
21 understanding of, of the issue.

22 **COMMISSIONER BALBIS:** Okay. Okay. And if I
23 can have each of the parties that are part of this
24 stipulation clarify that.

25 **MR. BREW:** Commissioner, that is certainly

1 correct. In fact, I had several discussions with staff
2 clarifying that very point.

3 **MR. MOYLE:** We'll confirm that as well.

4 **COMMISSIONER BALBIS:** Okay. And Duke?

5 **MR. WALLS:** Yes.

6 **COMMISSIONER BALBIS:** Just go down the line.

7 **MR. WRIGHT:** We'll confirm that as well.

8 Thank you.

9 **COMMISSIONER BALBIS:** Okay. That's, that's
10 the only thing I needed to clarify. It might be a comma
11 issue on the position that it might be worded better so
12 that's clarified. I don't know if we can handle that in
13 the order once everyone clarifies that's the position.

14 And then my other, my other comment I'd like
15 to make on Issues 6, 7, and 8 is just to note that this
16 is the first time that we've considered evidence in the
17 record for Duke and Progress's actions for the uprate
18 projects in 2012 and 2013. And the testimony of
19 Mr. Delowery and Mr. Foster indicates that the work
20 performed for the uprates was only that which presented
21 the company's option to complete the project once a
22 decision to repair or retire was made.

23 Additionally, the testimony also indicates
24 that once the decision to retire was made, that all the
25 vendors and employees were notified that they were

1 suspending the contract. So, Mr. Chairman, those are
2 the only comments or questions that I had.

3 **COMMISSIONER BRISÉ:** Okay. Thank you.

4 All right. Commissioner Brown.

5 **COMMISSIONER BROWN:** If possible, I'd like the
6 parties to be able to respond to that comment/question.
7 If that question -- he said -- I don't know if that's
8 accurate, that statement he made. Duke?

9 **MR. WALLS:** I'm sorry. I probably need to ask
10 for clarification on that statement, which one you were
11 talking about.

12 **COMMISSIONER BALBIS:** Yeah. Perhaps I can
13 clarify for Duke and Commissioner Brown. In last year's
14 NCRC proceeding, in the order it specifically stated
15 that, "By approving this motion, our consideration of
16 issues, DEF-specific issues will be deferred to next
17 year's NCRC or fully resolved through our decision
18 regarding the 2013 settlement agreement." The 2013
19 settlement agreement did not have any evidence in the
20 record, and so this is the first time when Mr. Delowery
21 and Mr. Foster specifically address Duke's actions, and
22 that evidence in the record. So that was what my
23 statement was in reference to.

24 **MR. WALLS:** We agree with that statement.
25 Yes.

1 **MR. MOYLE:** And I don't want to quibble with
2 it. Jon Moyle on behalf of FIPUG. I thought you had
3 indicated when you had made your previous statement that
4 it was something to the effect it was the first time
5 evidence has been considered related to the uprate.
6 That's how I heard it. But I think, you know, to the
7 extent -- I think we have taken positions in previous
8 hearings, I know FIPUG has, that we had some issues with
9 the uprate. And I think you did have evidence before
10 you on the uprate. I think all the Intervenors said
11 no-go on the uprate, but I just -- that was --

12 **COMMISSIONER BALBIS:** Correct. Yeah. That's
13 correct. No. I was specifically referencing the
14 previous order from last year's proceeding where we
15 deferred to this year.

16 **MR. MOYLE:** Okay.

17 **COMMISSIONER BROWN:** Thank you.

18 **COMMISSIONER BRISÉ:** All right. Commissioner
19 Brown, did you --

20 **COMMISSIONER BROWN:** No. That, that was the
21 clarification. That's what I heard.

22 **COMMISSIONER BRISÉ:** Okay. All right. So at
23 this time if there are no other questions or comments on
24 the stipulations for DEF, is there a motion?

25 **COMMISSIONER BALBIS:** I'm sorry. Could you

1 repeat that?

2 **COMMISSIONER BRISÉ:** I want to know if there
3 is a motion on the proposed stipulations for Duke
4 Energy.

5 **COMMISSIONER BALBIS:** Yes, Mr. Chairman. I'm
6 just concerned -- you know, it sounded like OPC and some
7 of the parties were clear on how Issue 1, the position
8 is worded. But I'm comfortable with the discussion
9 we've had that it deals with the controls that were in
10 place, then I'm supportive of the stipulation. I move
11 that we approve the Category 2 proposed stipulations on
12 Issues 1, 2A, 6, 7, and 8.

13 **COMMISSIONER BRISÉ:** Okay.

14 **COMMISSIONER BROWN:** Second.

15 **COMMISSIONER BRISÉ:** Okay. It's been moved
16 and seconded. Any further discussion?

17 Seeing none, all in favor, say aye.

18 Aye.

19 (Vote taken.)

20 All right. Thank you very much. By your,
21 by your action, we have approved the Category 2
22 stipulations for Duke Energy Florida. Okay.

23 **MR. YOUNG:** With that, Mr. Chairman, if we can
24 go back one to FPL.

25 **COMMISSIONER BRISÉ:** Okay. What did we miss?

1 **MR. YOUNG:** I think Betty Maitre, I think I
2 might have not moved her prefiled testimony and
3 exhibit -- I mean, prefiled testimony into the record as
4 though read. I would request that.

5 **COMMISSIONER BRISÉ:** In an abundance of
6 caution, we will move Betty Maitre's --

7 **MR. YOUNG:** Maitre.

8 **COMMISSIONER BRISÉ:** It's Maitre.

9 **MR. YOUNG:** Oh, Maitre. Okay. Okay. I'm
10 sorry.

11 **COMMISSIONER BRISÉ:** We will move her
12 testimony into the record as though read.

13 **MR. YOUNG:** With that, Mr. Chairman, we note
14 that this concludes FPL's portion of the hearing.

15 **COMMISSIONER BRISÉ:** All right. Thank you
16 very much.

17 **MS. CANO:** Mr. Chairman?

18 **COMMISSIONER BRISÉ:** Yes, ma'am.

19 **MS. CANO:** May FPL's counsel also be excused
20 from the remainder of the hearing?

21 **COMMISSIONER BRISÉ:** Let me think about that.

22 (Laughter.)

23 Absolutely. You may be excused, and thank
24 you, all the parties, for making sure that we had an
25 efficient process for that section of this hearing.

1 **MS. CANO:** Thank you.

2 **COMMISSIONER BRISÉ:** Thank you.

3 **MR. JACOBS:** Mr. Chairman?

4 **COMMISSIONER BRISÉ:** Yes, Mr. Jacobs.

5 **MR. JACOBS:** SACE would also request it be
6 excused. We have no further issues.

7 **COMMISSIONER BRISÉ:** All right. SACE, you are
8 excused as well.

9 **MR. JACOBS:** Thank you very much.

10 **COMMISSIONER BRISÉ:** All right. So now we
11 will give FPL an opportunity to, to excuse themselves,
12 and then we will move into the Duke portion of the
13 hearing. Let me find my place, myself in my script.

14 All right. So at this time we will move on to
15 the technical portion of DEF's hearing, and so I guess,
16 I guess we can officially convene that section of it.
17 And, staff, are there any preliminary matters?

18 **MR. YOUNG:** Yes, Mr. Chairman. Staff would
19 like to address preliminary matters pertaining solely to
20 DEF's portion of the hearing.

21 The first is staff's stipulated exhibit.
22 Staff would like to request that its stipulated exhibit
23 in DEF's portion of the hearing, Exhibit Number 33, be
24 entered into the record at this time.

25 **COMMISSIONER BRISÉ:** Okay. We will move

1 Exhibit 33 into the record at this time, seeing no
2 objections. Are there any objections? Seeing none,
3 33 is being moved into the record.

4 (Exhibit 33 admitted into the record.)

5 **MR. YOUNG:** All right. With that, Mr.
6 Chairman, there are some stipulated witnesses. Staff
7 would note that the following witnesses have been
8 excused from the DEF's portion of the hearing.

9 **MR. REHWINKEL:** Mr. Chairman, before we go to
10 that.

11 **COMMISSIONER BRISÉ:** Sure.

12 **MR. REHWINKEL:** Just in an abundance of
13 caution for the clarity of the record on the Duke
14 side --

15 **COMMISSIONER BRISÉ:** Sure.

16 **MR. REHWINKEL:** -- I would suggest that it may
17 be appropriate that we readdress Number 96, because
18 that is on the Duke side and it is, it is the Cat 2
19 stipulations for the Duke side, and it is really a
20 precedent, it's condition precedent for the dismissal of
21 Mr. Delowery, for example, I think. I'm not trying to
22 complicate things, but it just -- I don't think there's
23 going to be any kind of appeal or anything, but it, that
24 probably should be on this side of the fence, if you
25 will.

1 **COMMISSIONER BRISÉ:** Okay. So how do we do
2 that?

3 **MR. YOUNG:** Mr. Rehwinkel is proposing that
4 the Commission re-vote, vote again on the Category 2
5 stipulation or note it for the record?

6 **MR. REHWINKEL:** I think if you just take a --
7 if we note for the record that it was, that it was
8 approved by vote --

9 **COMMISSIONER BRISÉ:** Sure.

10 **MR. REHWINKEL:** -- now that we're -- we've
11 stopped that one and started this one.

12 **COMMISSIONER BRISÉ:** Sure. So for the record,
13 as we have convened the Duke portion of the hearing, we
14 want to recognize Exhibit 96, which includes Duke Energy
15 Florida's Category 2 stipulations as voted by the
16 Commission. All right.

17 **MR. YOUNG:** With that, I think we can move to
18 stipulated witnesses.

19 **COMMISSIONER BRISÉ:** Yes.

20 **MR. YOUNG:** In the portion of the hearing.

21 **MS. GAMBA:** Good afternoon. Mr. Delowery's
22 testimony has been stipulated to, and I would move that
23 his March 3rd, that the March 3rd, 2014, testimony of
24 Mr. Delowery, as well as the May 1, 2014, testimony
25 of Michael Delowery be moved into the record as though

1 read.

2 **COMMISSIONER BRISÉ:** Okay. At this time we
3 will move Mr. Delowery's testimony into the record. If
4 you can give me those dates again.

5 **MS. GAMBA:** That was March 3rd of 2014 and
6 May 1st of 2014.

7 **COMMISSIONER BRISÉ:** Okay. So we will move
8 the March 3rd testimony, 2014, and March -- was it first
9 1st?

10 **MS. GAMBA:** May 1st.

11 **COMMISSIONER BRISÉ:** May 1st, 2014, for
12 Mr. Delowery into the, into the record as though read.

13 **MS. GAMBA:** Thank you. I would also move that
14 Mr. Delowery's Exhibits MRD-1 through MRD-8 be moved
15 into the record as well, and those are listed on staff's
16 Comprehensive Exhibit List as Exhibit 7 through 13A.

17 **COMMISSIONER BRISÉ:** Okay. So we well move
18 Mr. Delowery's Exhibits 7 through 13A into the record at
19 this time. Are there any objections? Okay. Seeing
20 none, those are now part of the record.

21 **MS. GAMBA:** Thank you.

22 (Exhibits 7 through 13A admitted into the
23 record.)

IN RE: NUCLEAR COST RECOVERY CLAUSE

BY DUKE ENERGY FLORIDA, INC.

FPSC DOCKET NO. 140009-EI

DIRECT TESTIMONY OF MICHAEL R. DELOWERY

1 **I. INTRODUCTION AND QUALIFICATIONS.**

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

3 A. My name is Mike Delowery. My current business address is 400 South Tryon
4 Street, Charlotte, NC 28202.

5
6 **Q. By whom are you employed and in what capacity?**

7 A. I am employed by Duke Energy, Inc. and currently serve as the acting Vice
8 President of the Project Management and Construction (“PMC”) department. I
9 was appointed the acting Vice President, PMC, when Mr. John Elnitsky, the prior
10 Vice President, PMC, was asked to take on a strategic role with the coal ash
11 taskforce. Prior to being appointed as acting Vice President, PMC, I was the
12 General Manager, Projects, of the PMC department. Duke Energy Florida, Inc.
13 (“DEF” or the “Company”) is a fully owned subsidiary of Duke Energy.

14
15 **Q. What are your responsibilities as the acting Vice President of Project
16 Management and Construction?**

17 A. As the acting Vice President, PMC, I report directly to Mr. Dhiaa Jamil,
18 Executive Vice President, Energy, and President, Duke Energy Nuclear. In this
19 role I am the senior manager who has oversight responsibility for the

1 Decommissioning of the Crystal River Unit 3 (“CR3”) plant, the CR3 Extended
2 Power Uprate (“EPU”) project wind-down, the Decommissioning Transition
3 Organization (“DTO”), and the CR3 Investment Recovery Project (“IRP”). I also
4 have responsibility over new power plant construction and retrofit of existing
5 fossil and hydro-electric power plants for Duke Energy. Prior to my current role I
6 was the General Manger of Projects in the PMC department. Prior to that I was
7 the Decommissioning Planning Manager at CR3 and in that role I was responsible
8 for the development of the decommissioning plan following the decision to retire
9 CR3, for regulatory submittals to the United States Nuclear Regulatory
10 Commission (“NRC”), and for implementation of closeout of CR3 major project
11 activities.

12
13 **Q. Please summarize your educational background and professional experience.**

14 A. I hold a Bachelor of Science in Mechanical Engineering from Drexel University
15 and have over 22 years of experience in the nuclear power plant industry. I
16 initially joined Progress Energy in May 2011 and was the General Manager
17 responsible for the potential repair of the CR3 containment building. In February
18 2014 I was appointed to my current position.

19 Prior to joining Duke Energy, I worked for Florida Power & Light
20 (“FP&L”) where I held various management positions including project director
21 of the St. Lucie Nuclear Power Plant Extended Power Uprate, maintenance
22 director, project director of the St. Lucie Nuclear Power Plant steam generators
23 and reactor head replacement projects, and manager of projects. Prior to joining
24 FP&L, I held a number of positions at Exelon and completed a rotational

1 assignment with the Institute of Nuclear Power Operations (“INPO”) as a senior
2 evaluator of equipment reliability for both domestic and international nuclear
3 power stations.

4

5 **II. PURPOSE AND SUMMARY OF TESTIMONY.**

6 **Q. What is the purpose of your direct testimony?**

7 A. On February 5, 2013, Duke Energy announced its decision to retire and
8 decommission the CR3 nuclear power plant. As a result of this decision, the CR3
9 EPU project was cancelled.

10 In accordance with the cancellation of the EPU project my direct
11 testimony supports the Company’s request for cost recovery pursuant to Section
12 366.93(6), Fla. Stat. (2013) and Rule 25-6.0423(7), Fla. Admin. Code (2014) for
13 the prudent costs incurred in 2013 for the EPU project. I also will explain the
14 EPU project wind-down progress and the status of disposition for EPU-related
15 contracts, equipment, and materials. I will also describe the process for
16 disposition of EPU-related assets and the prudence of DEF’s 2013 project
17 management, contracting, accounting, and cost oversight policies and procedures
18 for the EPU project wind-down and investment recovery efforts.

19 In addition, based on the agreement by the parties to the 2013 Nuclear
20 Cost Recovery Clause (“NCRC”) docket, as approved by the Florida Public
21 Service Commission (“Commission”) in Order No. PSC-13-0493-FOF-EI, a
22 review of 2012 EPU project costs and policies and procedures was deferred to this
23 docket. Accordingly, I will also address the prudence of EPU project 2012 costs

1 and 2012 project management, contracting, accounting, and cost oversight
2 policies and procedures pursuant to the nuclear cost recovery statute and rule.

3

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

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

6 • Exhibit No. ____ (MRD-1), Direct Testimony and Exhibits of Jon Franke
7 in Support of 2012 Actual Costs on behalf of Progress Energy Florida, Inc.
8 in Docket No. 130009-EI;

9 • Exhibit No. __ (MRD-2), DEF's EPU LAR Withdrawal Letter to the NRC;

10 • Exhibit No. ____ (MRD-3), DEF's contract suspension letters to EPU
11 vendors;

12 • Exhibit No. ____ (MRD-4), confidential EPU Project Closeout Plan,
13 Revision 0;

14 • Exhibit No. ____ (MRD-5), CR3 Administrative Procedure, AI-9010,
15 Conduct of CR3 Investment Recovery, Revision 0; and,

16 • Exhibit No. ____ (MRD-6), CR3 Investment Recovery Project, Project
17 Execution Plan, Revision 0.

18 As to 2013 EPU project costs I am co-sponsoring Schedule 2013 Detail,
19 and sponsoring Appendices D and E, which are included as part of Exhibit No.
20 ____ (TGF-3), to Thomas G. Foster's direct March 3, 2014 testimony.

21 In addition, as to 2012 EPU costs as reflected in the March 2013 direct
22 testimony, which is incorporated and made a part of my current testimony in
23 Exhibit No. ____ (MRD-1), I co-sponsor the cost portions of the Schedules for the
24 2012 EPU Nuclear Filing Requirements ("NFRs"), and sponsor capital

1 expenditure variances and contract information which are included as Exhibit No.
2 ___ (TGF-1) to Mr. Thomas G. Foster’s testimony. These exhibits were prepared
3 by the Company, and they are generally and regularly used by the Company in the
4 normal course of its business, and they are true and correct to the best of my
5 information and belief.

6
7 **Q. Do you have any changes to the 2012 direct testimony regarding the**
8 **prudence of the 2012 EPU costs and project management, contracting,**
9 **accounting, and cost oversight controls that you have included as Exhibit No.**
10 **___(MRD-1) to your current testimony?**

11 A. Progress Energy Florida, Inc. is now Duke Energy Florida, Inc. as a result of the
12 merger between Duke Energy and Progress Energy, Inc. Otherwise, the
13 information in Jon Franke’s March 2013 direct testimony attached as Exhibit No.
14 ___ (MRD-1) to my current testimony with respect to the 2012 EPU costs and
15 project management, contracting, accounting, and cost oversight controls remains
16 true and accurate. I adopt this testimony and exhibits in their entirety along with
17 the sponsored schedules.

18
19 **Q. Please summarize your testimony.**

20 A. My direct testimony supports DEF’s request for a prudence determination on the
21 actual costs it incurred in 2012 and 2013 for the EPU project and updates the
22 prudent EPU project wind-down and asset disposition.

23 As a result of Duke Energy’s decision to retire CR3, the EPU project was
24 not needed and was accordingly cancelled. DEF immediately notified the NRC of

1 the retirement decision and withdrew the Company's EPU License Amendment
2 Request ("LAR") application. DEF immediately suspended all contractor and
3 purchase order work activities on the EPU project. DEF demobilized the EPU
4 project team and released or reassigned project personnel. DEF developed and
5 implemented an EPU Project Closeout Plan. Pursuant to this plan, DEF began
6 conducting an analysis to determine the cost effective and beneficial disposition
7 decision for each EPU contract and purchase order pending at the time the CR3
8 retirement decision was made. The EPU Closeout Plan outlined the initial
9 process for the wind-down of the EPU project and then the transition of the
10 project and related assets to the CR3 Decommissioning Transition Organization
11 ("DTO") and to the newly created Investment Recovery Project ("IRP"), which
12 was formed to assist with the disposition of all CR3 assets, including EPU-related
13 assets, upon the decision to retire and decommission CR3. The Investment
14 Recovery ("IR") team is prudently marketing EPU-related assets internally and
15 externally and making disposition decisions in accordance with its policies and
16 procedures.

17
18 **III. ACTUAL COSTS INCURRED IN 2013 FOR THE EPU PROJECT.**

19 **A. Status of EPU Project Wind-Down.**

20 **Q. Will you please describe the status of the EPU project in 2013?**

21 A. Yes. On February 5, 2013, Duke Energy announced that the Duke Energy Board
22 of Directors had decided to retire and decommission the CR3 nuclear power plant.
23 As a result of this decision, the CR3 EPU project was cancelled. Prior to the
24 retirement decision in February, DEF was proceeding with the minimal work

1 necessary to preserve the option to complete the EPU project during the extended
2 CR3 outage.

3

4 **Q. How did the Company proceed to cancel the EPU project?**

5 A. DEF took immediate steps to cancel the EPU project. That same day the
6 Company verbally notified the NRC that the Company had decided to retire CR3
7 and cancel the EPU project. The Company further explained that this decision
8 cancelled the NRC’s EPU LAR review. Thereafter, on February 7, 2013, DEF
9 formally notified the NRC in writing that the Company was cancelling the EPU
10 project and withdrawing its EPU LAR application as a result of the decision to
11 retire CR3. See the Company’s EPU LAR Withdrawal Letter to the NRC
12 attached as Exhibit No. __ (MRD-2) to my direct testimony. The NRC confirmed
13 that the EPU LAR review was cancelled and stopped all work on the EPU LAR
14 effective February 5, 2013. There were no new NRC charges for the NRC review
15 of the EPU LAR after February 5, 2013.

16 The Company also notified the Florida Department of Environmental
17 Protection (“FDEP”) that the Company had decided to retire CR3 and cancel the
18 EPU project. The Company and the FDEP have ceased EPU project permitting
19 activities. The discharge canal cooling tower Point of Discharge (“POD”) project
20 that was part of the EPU project was also cancelled when the EPU project was
21 cancelled.

22 When the Company cancelled the EPU project the Company also sent a
23 formal notification to all vendors with open contracts and purchase orders for the
24 EPU project to suspend all EPU project work activities immediately. A similar

1 suspension notice letter was sent to contractor AREVA, Inc. to suspend all
2 engineering work in support of the Company's pending EPU LAR application and
3 the EPU project effective immediately. Copies of these letters are included as
4 Exhibit No. ____ (MRD-3) to my direct testimony.

5 Finally, when the Company decided to cancel the EPU project, the
6 Company demobilized the EPU project team. All EPU project engineering
7 contractors, except for personnel required to manage and maintain existing EPU
8 equipment, were released. All EPU project management and operations support
9 staff were released except for two EPU project team members. The remaining
10 EPU project team members include the EPU project manager, and the EPU
11 project specialist. These EPU project personnel were necessary to perform the
12 EPU project closeout work, perform asset preservation, and assist with the
13 transition of the EPU-related equipment to the IRP.

14
15 **Q. How did DEF initially implement the EPU wind-down?**

16 A. The EPU Closeout Plan was created in early 2013 to wind down and close out the
17 project. The EPU Closeout Plan addresses: (1) EPU project contracts and
18 purchase orders; (2) EPU equipment maintenance and disposition; (3) EPU
19 documentation closeout; (4) EPU financial impact and closeout; and (5) EPU
20 project regulatory activities closeout. The EPU Closeout Plan is attached as
21 Exhibit No. ____(MRD-4) to my direct testimony. Additionally, the EPU Closeout
22 Plan described the transition to the DTO and the IRP. The EPU Closeout Plan is
23 under revision in 2014 to administratively document that the EPU-related assets
24 have been transferred to the IRP as of third quarter 2013.

1 **Q. What happened to existing EPU Work Orders and Engineering Changes in**
2 **the EPU Project Closeout Plan?**

3 A. There is no further work under the EPU project work orders or Engineering
4 Changes (“ECs”) for the project. No EPU EC work order tasks remain open;
5 however, they will be maintained on the system to ensure that there is
6 documentation for them until the documentation is transitioned from the EPU
7 project to the project to decommission CR3. During this transition period, all
8 open EPU Work Orders and Engineering Changes are maintained in the Passport
9 system. All EPU Engineering Change Work Order Tasks were either completed
10 or cancelled. Additional Work Orders are only written when necessary to allow
11 preventive and corrective work to be performed to preserve the equipment. EPU
12 equipment installed in the plant is being maintained by the CR3 Maintenance
13 Department.

14
15 **Q. Can you describe the process to close out contracts and purchase orders for**
16 **the EPU equipment in 2013?**

17 A. Yes. As I explained above, when the Company decided to retire CR3 and cancel
18 the EPU project all EPU project vendors with open contracts and purchase orders
19 for EPU equipment or services were notified to immediately suspend all EPU
20 work activities. Following the retirement decision, a formal notification was sent
21 to all vendors with open contracts and purchase orders requesting that all work
22 activities be suspended immediately.

23 Thereafter, each vendor was contacted individually by EPU and Supply
24 Chain personnel to discuss the path forward regarding possible completion of

1 work, if that was the economically beneficial decision, or termination of the
2 contract or purchase order. Contract and purchase order closeout options included
3 (1) an assessment of contract and purchase order status, (2) the determination of
4 the percent complete of equipment fabrication, (3) the determination of partial
5 deliverables provided, (4) the determination of the feasibility of accepting
6 shipment and delivery of imminent orders, and (5) the determination of the
7 percentage of full price payment to arrive at recommendations for the termination
8 or beneficial completion of the work under the contract or purchase order.

9
10 **Q. Does the Company currently have any contracts for EPU Long Lead**
11 **Equipment (“LLE”)?**

12 A. No. DEF negotiated with its vendors and successfully closed out all of its EPU-
13 related LLE contracts in 2013.

14
15 **Q. Can you generally describe how you closed out the major LLE contracts?**

16 A. Yes. DEF followed the process I have described above to determine the cost
17 effective decision for DEF and its customers.

18 For example, DEF had contracted with vendor Siemens Energy, Inc.
19 (“Siemens”) under Contract No 145569 to procure and install the Low Pressure
20 and High Pressure Turbines. The manufacturing work under the Siemens contract
21 had been completed prior to the retirement decision and thus the closeout
22 negotiations addressed the installation work under the contract. In August of
23 2013, DEF was able to negotiate a reduction in the final contract amount of
24 [REDACTED] because no installation work was performed and executed an

1 amendment closing this contract. All turbine materials previously procured from
2 Siemens are in storage and will be dispositioned through the IRP process.

3 Another example is Contract 545831 with Curtiss Wright Flow Control
4 Corporation/Scientech (“Scientech”) for the Inadequate Core Cooling Mitigation
5 System (“ICCMS”). DEF was able to negotiate a reduction of the final closeout
6 amount from [REDACTED] to [REDACTED]. DEF reviewed the closeout costs, verified
7 the percentage completion of work, challenged certain costs, and held the vendor
8 accountable to the terms of the contract. The ICCMS equipment was specifically
9 designed for CR3 and it could not be utilized at another site without a major
10 engineering redesign and possibly NRC approval. Accordingly, based on the
11 extremely low estimated salvage or resale value DEF made the decision not to
12 pay to complete and procure all of the equipment. ICCMS equipment previously
13 completed is in storage and will be dispositioned pursuant to the IRP process.

14 The closeout of Contract 590969 with SPX Heat Transfer, LLC (“SPX”)
15 for the feedwater heat exchangers 3A/3B followed a similar decision-making
16 process. Initially, SPX requested an additional [REDACTED] to close out the contract.
17 DEF negotiated the closeout of the contract for [REDACTED]
18 [REDACTED], which DEF estimated
19 had minimal salvage value.

20 For Contract Numbers 488945 and 506636 with Sulzer Pumps (US), Inc.
21 (“Sulzer”) for the main feedwater pumps and booster feedwater pumps, DEF
22 negotiated reduced contract closeout costs and took possession of three (3) 3500
23 horsepower motors and the lube oil skids, which will be dispositioned through the
24 IRP process.

1 DEF documented its decision-making processes through Integrated
2 Change Forms (“ICF”) and finalized these decisions in contract amendments.
3 Appendix E attached to Mr. Foster’s testimony as Exhibit No. __ (TGF-3)
4 provides additional details regarding the EPU contracts (over \$1 million), the date
5 of closeout, and the estimates of the total final contract amount.

6

7 **Q. Were these EPU contract closeout decisions prudent?**

8 A. Yes. DEF followed its processes, conducted appropriate analyses, and reached
9 economically beneficial decisions for DEF and its customers.

10

11 **Q. Can you please explain the transition from the EPU Closeout Plan to the**
12 **Investment Recovery Project processes and procedures?**

13 A. Yes. The EPU Project Closeout Plan described the initial process for the
14 suspension of EPU work, close-out of major engineering, licensing, and contract
15 or purchase order activities under the project, and the preservation of the EPU-
16 related assets. The Company created the IRP in mid-2013 to have a single group
17 that was responsible for management and disposition of all of the CR3 plant
18 assets. The objective of the IRP is to maximize return to stakeholders on CR3
19 assets by implementing a program under which marketable CR3 plant assets are
20 identified, maintained, marketed, sold and removed from the site in an efficient
21 manner.

22

23

24

1 **Q. Can you describe the overall governance for asset disposition?**

2 A. Yes. As I mentioned above, following the decision to retire and decommission the
3 CR3 plant, the Company began the process of setting up an organization to
4 manage that process. It was called the CR3 Decommissioning Transition
5 Organization (“DTO”). Unlike many generating stations that are retired at the
6 end of their useful life, CR3 has material and equipment that retain some value.
7 As a result, as part of the DTO, DEF created the IRP to manage the asset
8 disposition process.

9 First, the IR team was initially tasked with creating specific governance
10 documents and a procedure for the process of disposition. Administrative
11 Procedure AI-9010, *Conduct of CR3 Investment Recovery* (Rev. 0), was created
12 and approved through DEF’s general procedure authorization process. See AI-
13 9010 attached hereto as Exhibit No. ___(MRD-5). Procedure AI-9010 outlines the
14 asset pricing requirements and minimum reviews and approvals required for the
15 execution of transactions, and the record keeping requirements necessary for the
16 disposition of assets from CR3 during the DTO phase. Secondly, an Investment
17 Recovery Project, Project Execution Plan (“IR Project Plan”) was created and
18 approved by DTO management. This project plan supplies the overall governance
19 for the IR project and defines the organization, work processes, and systems
20 necessary for the successful disposition of all CR3 assets. See IR Project Plan
21 attached hereto as Exhibit No. __ (MRD-6).

1 **Q. What is the disposition strategy for the EPU equipment in DEF's possession?**

2 A. DEF is committed to using its best efforts in order to maximize disposition value
3 for the EPU-related equipment. EPU equipment will be properly maintained at
4 CR3 until such time as the IRP determines the optimal disposition method for
5 DEF and its customers. DEF is using a step-wise approach for EPU equipment
6 disposition under administrative procedure AI-9010, *Conduct of CR3 Investment*
7 *Recovery*, attached hereto as Exhibit No. __ (MRD-5), and the CR3 Investment
8 Recovery Project ("IRP"), Project Execution Plan, attached as my Exhibit No.
9 __ (MRD-6).

10 To explain, under the IRP process, assets will be disposed of in the
11 following manner: 1) solicit interest and utilize Duke Energy internal transfers to
12 the fleet in accordance with the *Affiliate Asset Transfer Transactions* process
13 manual, SCD211; 2) if not transferred internally, then solicit external interest
14 from distributors, original equipment manufacturers, and re-sellers and utilize a
15 bid process pursuant to procedure MCP-NGGC-001, *NGG Contract Initiation,*
16 *Development and Administration*; and 3) for any remaining equipment,
17 disposition at salvage or scrap value if cost effective to do so depending on the
18 location (installed/uninstalled) of the LLE.

19 In 2013, DEF solicited and pursued internal interest in EPU equipment
20 with Duke Energy affiliates, in accordance with its affiliate asset transfer process,
21 and received positive interest regarding the Low Pressure Turbine Rotors from an
22 affiliated Duke Energy plant. The IR team is currently working through
23 feasibility analyses to determine if some of the turbine equipment could be
24 suitable at this other Duke Energy plant. In addition, IR is pursuing external

1 interest in EPU-related equipment pursuant to the IR plans and processes. In
2 reaching out to the external market DEF has been employing several different
3 avenues of communication including, 1) contacting the original equipment
4 vendor; 2) utilizing RAPID – a utility parts website; 3) utilizing third party re-
5 sellers; and 4) using its own Supply Chain personnel expertise and contacts to get
6 in touch with potential buyers. If there is external interest in any of the LLE, DEF
7 will then move to disposition this equipment through an external bid process
8 through Power Advocate system. As to EPU equipment that was already installed
9 in the plant, the IRP will also be taking into consideration the cost of safe removal
10 versus the potential resell or salvage value as it performs its cost-benefit analyses
11 and decides upon the optimal disposition decisions for DEF and its customers.

12
13 **Q. Other than the LLE mentioned above, what other EPU-related assets were**
14 **disposed in 2013?**

15 A. During 2013, several small assets were transferred or salvaged for scrap value.
16 The credits received for these materials are included in Line 1d in the 2013 Detail
17 Schedule attached as Exhibit No. ____ (TGF-3) to Mr. Foster's testimony.

18 In addition, in the end of 2013, DEF initiated a bid process for the EPU
19 Point of Discharge ("POD") Cooling Tower equipment. Response bids on that
20 equipment came back in early 2014, and DEF is in the process of analyzing the
21 bids.

1 **B. EPU Project 2013 Actual Costs.**

2 **Q. What costs did DEF incur related to the EPU project in 2013?**

3 A. The total capital costs incurred for 2013, gross of joint owner billing and
4 exclusive of carrying costs, were \$11.2 million. This is almost \$3.0 million less
5 than DEF estimated. These costs were incurred in the categories of: (1) license
6 application and permitting, (2) project management, (3) on-site construction
7 facilities, (4) power block engineering, procurement and related construction, and
8 (5) non-power block engineering, procurement and related construction.
9 Schedule *2013 Detail* in Exhibit No. ____ (TGF-3) to Mr. Foster's testimony
10 provides further details about these costs.

11
12 **Q. Please describe the total License Application and Permitting costs incurred**
13 **and explain why the Company incurred them.**

14 A. Actual 2013 license application and permitting costs were approximately
15 \$560,000. Prior to the decision to retire CR3 and cancel the EPU project the
16 Company continued with its pursuit of the EPU LAR from the NRC. The
17 Company's EPU LAR was submitted to the NRC on June 15, 2011 and the NRC
18 accepted the EPU LAR for review on November 21, 2011. Costs incurred in
19 2013 were for preparing and submitting responses to Requests for Additional
20 Information ("RAI") prior to the retirement announcement and for NRC fees
21 related to the NRC's review of the LAR application. No new NRC fees were
22 incurred after the retirement decision; however, some costs may have been paid
23 out following that time based on the timing of receipt of invoices for NRC work
24 prior to the CR3 retirement decision. In addition, minimal labor costs were

1 incurred following the retirement decision to close out the licensing and
2 permitting portions of the EPU project.

3

4 **Q. Please describe the total Project Management costs incurred and**
5 **explain why the Company incurred them.**

6 A. Actual EPU project management costs in 2013 were approximately \$657,000.
7 2013 project management costs were incurred during the first part of the year
8 based on standard EPU project management activities as described in Exhibit No.
9 ____ (MRD-1). Following the retirement decision in February, 2013, the
10 Company cancelled the EPU project and changed its focus to closeout and wind-
11 down activities. The Company's project management costs included the following
12 project management activities for the EPU project in 2013:

13 (1) project administration, including project staffing and EPU demobilization
14 and equipment maintenance;

15 (2) contract administration and closeout;

16 (3) project management, including closeout project plans, project governance
17 and oversight, task plans, task monitoring plans, and task item completions;

18 and

19 (4) development and management of project closure processes for the NRC
20 regarding the EPU LAR application.

21 Each activity was conducted under the Company's project management and cost
22 oversight policies and procedures. The project management work and associated
23 costs were necessary for the EPU work prior to the retirement decision and for
24 closeout and wind-down work following the retirement decision and subsequent

1 cancellation of the EPU project. These costs were prudently incurred according
2 to the Company's procedures as discussed in more detail below in Section IV.

3

4 **Q. Please describe the total On-Site Construction Facilities costs incurred**
5 **and explain why the Company incurred them.**

6 A. The Company incurred approximately \$46,000 for On-Site Construction Facilities
7 costs for the EPU project in 2013. These costs were incurred for storage for
8 components and tools related to the EPU, facilities management, and labor costs
9 for oversight of demobilization of storage facilities.

10

11 **Q. Please describe the total costs incurred for the Power Block**
12 **Engineering, Procurement and related construction cost items and**
13 **explain why the Company incurred them.**

14 A. The Company incurred approximately \$9.8 million for Power Block Engineering,
15 Procurement costs for the EPU project in 2013. DEF incurred EPU costs for
16 contract payments for fabrication of LLE items that were contractually committed
17 for the project. As of the end of 2013, DEF has received and placed the following
18 LLE items in storage at CR3:

- POD cooling tower and associated equipment;
- Condensate pump motors and discharge head equipment;
- High pressure turbine rotor equipment;
- Low pressure turbine rotor equipment and casings;
- Feedwater heat exchanges 2A/2B and associated equipment;
- ICCMS/fast cooldown equipment;
- Deaerator bypass line equipment;
- EFW system upgrade equipment;
- Atmospheric dump valves/rapid cool down and associated equipment;
- Low pressure injection ("LPI") cross tie /hot injection equipment;

- Feedwater booster pump motors, lube oil skids, and related pump modification equipment;
- Makeup tank bypass line and associated equipment;
- EPU vibration monitoring equipment; and
- Assorted EPU tools.

1 DEF also incurred some costs in 2013 for engineering work to support and
2 respond to NRC RAIs for the EPU LAR application prior to the retirement
3 decisions.

4 This category also includes costs incurred to closeout LLE contracts
5 following the retirement decision and any credits associated with the closeout
6 decisions and salvage of the EPU assets mentioned above in 2013.

7

8 **Q. Please describe the total Non-Power Block Engineering, Procurement and**
9 **related construction costs and explain why the company incurred them.**

10 A. DEF incurred approximately \$56,000 for Non-Power Block Engineering costs
11 related to the disposition of items in the EPU POD lay-down yard. As of October
12 2013 this work was closed-out and no further costs were incurred in 2013.

13

14 **Q. How did actual expenditures for January 2013 through December 2013**
15 **compare to DEF's actual/estimated costs for the EPU Project?**

16 A. DEF's actual capital expenditures for the EPU project in 2013 were lower than
17 DEF's actual/estimated costs for 2013 by almost \$3.0 million. This variance is
18 based on DEF's actual expenditures for 2013 compared to the Actual/Estimated
19 ("AE") Schedules attached to Mr. Foster's May 1, 2013 testimony, which
20 reflected actual/estimated 2013 EPU costs following the retirement decision.

1 **Q. Were there any major variances in 2013 for the EPU costs?**

2 A. Yes, but only as to power block engineering and procurement. The power block
3 engineering and procurement estimate for costs was \$13.1 million. Actual power
4 block engineering and procurement expenditures in 2013 were \$9.8 million,
5 which was over \$3.0 million less than the estimated amount. This under variance
6 was attributable to actual materials storage charges which were approximately \$2
7 million less than estimated and a warehouse inventory adjustment credit of
8 approximately \$1 million that was applied to the EPU.

9 As shown on Appendix D to Exhibit No. __ (TGF-3) to Mr. Foster's
10 testimony, the other variances for these categories were all minor variances.

11
12 **Q. Did DEF incur Operations and Maintenance costs in 2013 for the EPU
13 project?**

14 A. Yes. DEF incurred necessary Operations and Maintenance ("O&M") costs to
15 support the EPU project work in 2013. These O&M costs are identified and
16 included in Schedule *2013 Detail* included in Exhibit No. ____ (TGF-3) to Mr.
17 Foster's testimony.

18
19 **Q. How did actual O&M expenditures for January 2013 through December
20 2013 compare with DEF's actual/estimated O&M expenditures for 2013?**

21 A. Total O&M costs were \$267,649 or \$261,735 less than estimated. Exhibit No.
22 __ (TGF-3), Appendix B to Mr. Foster's testimony shows the minor under
23 variances for the O&M costs categories. There were no major (more than \$1 .0
24 million) O&M cost variances to report in 2013.

1 **Q. Were DEF's 2013 EPU project costs prudently incurred?**

2 A. Yes, they were. The Company immediately suspended any additional licensing,
3 contract, and purchase order work, demobilized the EPU project team except for
4 management necessary to wind-down the project, and developed and
5 implemented the EPU Project Closeout Plan. DEF then transitioned the asset
6 recovery efforts to the newly created IR team that was developed specifically for
7 the purposed of asset disposition. DEF is currently working through its IR team
8 to ensure that disposition of EPU assets is cost effective for both the Company
9 and its customers. Any proceeds from the resale of EPU equipment will be
10 credited to customers. For these reasons, as more fully explained above, these
11 costs were prudently incurred.

12
13 **Q. Are the 2013 EPU project costs included in this NCRC docket for recovery
14 separate and apart from those that the Company incurred in 2013 to
15 decommission CR3?**

16 A. Yes, DEF has only included for recovery in this proceeding those costs that were
17 incurred solely for the EPU project.

18
19 **IV. 2013 PROJECT MANAGEMENT AND COST CONTROL OVERSIGHT.**

20 **Q. Did the Company utilize prudent project management and cost oversight
21 controls when implementing the closeout of the EPU project?**

22 A. Yes it did. The Company developed its closeout and investment recovery plans
23 and procedures utilizing the project management policies and procedures that

1 have been reviewed and approved as prudent by this Commission in prior year's
2 dockets and that are described in Exhibit No. ____ (MRD-1) to my testimony.

3

4 **Q. Please explain the project management and cost control oversight processes**
5 **used for the EPU wind-down in 2013.**

6 A. As an initial matter, the EPU Closeout Plan was developed as a guide for project
7 personnel to demobilize and closeout the EPU project. Each closeout decision in
8 2013 was documented utilizing the Company's existing ICF documentation and
9 approval process that is part of the EPU project management and cost control
10 policies and procedures previously reviewed and approved as prudent by the
11 Commission. The EPU Closeout Plan outlines the process for the transition of the
12 EPU work orders and Engineering Changes to the CR3 DTO consistent with the
13 guidance contained in procedure EGR-NGGC-0005. DEF also utilized Nuclear
14 Generation Group standard procedure MCP-NGGC-0001, *Contract Initiation,*
15 *Development and Administration,* for EPU vendor contractor closeout and
16 oversight guidance. These procedures are also part of the project management
17 and cost control procedures previously reviewed by Commission Audit Staff in
18 2013.

19 Additionally, as discussed above, the IRP was created, under the guidance
20 of PMC-PRC-00-AD-0002, *Development, Planning and Execution of Large*
21 *Construction Project,* to disposition all of the CR3 plant assets. Responsibility for
22 EPU equipment disposition was transferred to the IRP and is governed by
23 procedure number AI-9010, *Conduct of CR3 Investment Recovery,* see
24 Exhibit__(MRD-5) to my testimony. AI-9010 was developed specifically for CR3

1 asset disposition and outlines the pricing requirements, minimum reviews, and
2 approvals required for the execution of transactions and the record keeping
3 requirements necessary for the disposition of assets from CR3. AI-9010 provides
4 specific instructions on expectations, assets pricing, disposition transaction review
5 and approvals, project assurance and removal of installed assets and provides
6 approved forms to document asset disposition.

7

8 **Q. What other oversight mechanisms did DEF use to oversee the IR process?**

9 A. In 2013, the Company utilized Key Performance Indicators (“KPIs”) to monitor
10 the status of the IRP. These KPIs were reviewed by the IR team on a regular
11 basis. Additionally, weekly progress/status meetings were held to review open
12 issues in the project including action items, trends, key schedule milestones and
13 other issues. Monthly progress reports were issued reporting financial results for
14 the overall project, for the prior month. Monthly Project Management and
15 Construction (“PMC”) meetings were held for the project team to present updates
16 to PMC senior management. A level 1 IRP schedule was also maintained in 2013
17 and reviewed on a regular basis during informal weekly meetings. Additionally,
18 project risks were holistically managed in accordance with PJM-0013-ENTSTD,
19 *Project Risk Management*, and a formal risk register was created and is
20 maintained for the project and updated as necessary.

21

22

23

1 **Q. Did DEF perform benchmarking of other utilities as it created and**
2 **implemented its disposition and wind-down plans?**

3 A. Yes. DEF benchmarked several of the most recently decommissioned nuclear
4 power plants including, Zion Units 1 & 2 in Illinois, San Onofre Units in
5 California, and the Kewaunee Unit in Wisconsin. DEF sought out, reviewed, and
6 implemented lessons learned from these plants' decommissioning efforts as it
7 created its DTO and IR processes.

8
9 **Q. Are DEF's project management, contracting, and cost oversight controls**
10 **reasonable and prudent?**

11 A. Yes, they are. These project management policies and procedures reflect the
12 collective experience and knowledge of the combined Company and industry best
13 practice based on benchmarking. Many of these policies and procedures were
14 reviewed in an annual Commission project management audit in the 2013 NCRC
15 docket. The EPU project management, contracting and cost oversight controls for
16 the wind-down and investment recovery efforts are consistent with best practices
17 for project management in the industry and, therefore are reasonable and prudent.

18
19 **Q. Does this conclude your testimony?**

20 A. Yes, it does.

IN RE: NUCLEAR COST RECOVERY CLAUSE**BY DUKE ENERGY FLORIDA, INC.****FPSC DOCKET NO. 140009-EI****DIRECT TESTIMONY OF MICHAEL R. DELOWERY**1 **I. INTRODUCTION AND QUALIFICATIONS.**2 **Q. Please state your name and business address.**3 A. My name is Mike Delowery. My current business address is 400 South Tryon
4 Street, Charlotte, NC 28202.

5

6 **Q. By whom are you employed and in what capacity?**7 A. I am employed by Duke Energy Corporation (“Duke Energy”) and currently serve
8 as the acting Vice President of the Project Management and Construction
9 (“PMC”) department. Duke Energy Florida, Inc. (“DEF” or the “Company”) is a
10 fully owned subsidiary of Duke Energy.

11

12 **Q. Have you previously filed testimony in this docket?**13 A. Yes. I filed direct testimony in support of DEF’s 2012 and 2013 actual costs
14 incurred for the Crystal River Unit 3 (“CR3”) Extended Power Uprate (“EPU”)
15 project on March 3, 2014.

16

17

1 **II. PURPOSE AND SUMMARY OF TESTIMONY.**

2 **Q. What is the purpose of your direct testimony?**

3 A. My testimony describes the status of the CR3 EPU project wind-down and
4 investment recovery efforts in 2014 to date and projected activities for 2015. My
5 testimony also supports the reasonableness and prudence of DEF's 2014
6 actual/estimated and 2015 projected costs associated with the cancellation and
7 wind-down of the EPU project, pursuant to Section 366.93(6), Florida Statutes,
8 and Rule 25-6.0423(7), Florida Administrative Code ("F.A.C.").
9

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

11 A. Yes, I am sponsoring the following exhibit to my testimony:

- 12 • Exhibit No. ____ (MRD-7), Investment Recovery Project disposition
13 schedule for major EPU components.
- 14 • Exhibit No. ____ (MRD-8), Investment Recovery Guidance Document,
15 IRGD-001, *Sales Track Guidance and Documentation Package*
16 *Development.*

17 I am co-sponsoring portions of the Schedules 2014 and 2015 Detail, and
18 sponsoring Appendices D and E, which are included as part of Exhibit No. ____
19 (TGF-5), to Thomas G. Foster's May 1, 2014 testimony. These Schedules reflect
20 the 2014 and 2015 actual/estimated revenue requirement calculations, the major
21 task categories and expense variances, and a summary of contracts and details
22 over \$1 million.

23 All of these exhibits are true and correct.

1 **Q. Please summarize your testimony.**

2 A. As a result of the decision to retire CR3, the EPU project was not needed and was
3 accordingly cancelled. In 2014, DEF has been working to disposition EPU assets
4 and materials in accordance with CR3 Administrative Procedure, AI-9010,
5 *Conduct of CR3 Investment Recovery*, and the Investment Recovery Project,
6 Project Execution Plan, as I described in my March 3, 2014 testimony. The
7 Investment Recovery Project (“IRP”) team is prudently marketing EPU-related
8 assets internally and externally and making disposition decisions in accordance
9 with its policies and procedures. The IRP will conduct bid events for all
10 appropriate EPU-related assets in 2014 and DEF currently anticipates that all
11 EPU-related assets will be dispositioned by the end of 2014, with minimal wind-
12 down activities extending past 2014. Value received from sales or salvage of
13 EPU-related equipment will be credited back to DEF’s customers through the
14 Nuclear Cost Recovery Clause (“NCRC”) to reduce the remaining unrecovered
15 investment. For these reasons, DEF requests that the Commission determine that
16 its 2014 actual/estimated and 2015 projected costs are reasonable and that DEF is
17 entitled to recover CR3 EPU project wind-down and exit costs pursuant to the
18 NCRC statute and rule.

19
20 **III. EPU INVESTMENT RECOVERY.**

21 **Q. What is the status of EPU asset disposition efforts in 2014?**

22 A. DEF is moving forward with its investment recovery efforts under the IRP
23 processes and procedures. As I explained initially in my March 3, 2014 testimony,

1 under the IRP process, assets will be disposed of utilizing the following step-wise
2 approach: 1) solicit internal interest in EPU asset acquisitions and utilize Duke
3 Energy internal transfers to the fleet in accordance with the *Affiliate Asset*
4 *Transfer Transactions* process manual, SCD211; 2) if the EPU assets are not
5 transferred internally, then solicit external EPU asset acquisition interest from
6 distributors, original equipment manufacturers, and re-sellers utilizing a bid
7 process pursuant to procedure MCP-NGGC-001, *NGG Contract Initiation,*
8 *Development and Administration*; and 3) for any remaining EPU equipment,
9 disposition at salvage or scrap value, if cost effective to do so, depending on
10 whether the equipment is installed or not installed and the cost to move the
11 equipment to the salvage or scrap location.

12
13 **Q. What is the status of internal EPU asset transfers?**

14 A. DEF solicited and pursued internal interest in the acquisition of the EPU
15 equipment with Duke Energy affiliates in 2013. As I indicated in my March 3,
16 2014 testimony, in 2013 several small assets were transferred or salvaged for
17 scrap value. A Duke Energy affiliate initially indicated that it may have interest in
18 the acquisition of the EPU low pressure turbine rotors for one of its stations. This
19 asset acquisition was evaluated and the Duke Energy affiliate concluded in 2014
20 that the equipment was not appropriate for the station. Additionally, in 2014
21 some minor EPU-related materials will be transferred internally pursuant to
22 DEF's policies. Other EPU equipment is currently under evaluation by Duke
23 Energy affiliates.

1 **Q. Is there any external interest in the acquisition of the EPU assets?**

2 A. The IRP is pursuing external interest in the acquisition of the EPU-related
3 equipment this year. DEF has employed several different avenues of
4 communication with the external market regarding interest in the acquisition of
5 the EPU assets. These avenues include: 1) contacting the original EPU equipment
6 vendor; 2) utilizing RAPID – a utility parts website; 3) utilizing third party re-
7 sellers; and 4) using Duke Energy’s own Supply Chain personnel expertise and
8 contacts to get in touch with potential buyers. Based on these efforts to generate
9 external interest in the acquisition of EPU assets, DEF currently plans to
10 commence additional bid events for appropriate EPU-related equipment through
11 an external bid process through the Power Advocate system in 2014. Exhibit No.
12 ____ (MRD-7) provides the IRP disposition schedule for some of the major EPU
13 components.

14
15 **Q. Has DEF already initiated a bid event for EPU assets?**

16 A. Yes. As I indicated in my March 3, 2014 testimony, DEF initiated a bid event at
17 the end of 2013 for the EPU Point of Discharge (“POD”) Cooling Tower
18 equipment and materials. Bid responses were received in early 2014, and DEF is
19 in the process of negotiating and finalizing a sales contract with a potential buyer.
20 DEF expects to complete this negotiation process in May of 2014.

21

22

23

1 **Q. When will DEF initiate the other EPU asset bid events?**

2 A. The current schedule is to commence bid events for major EPU components,
3 including the low pressure rotors, moisture separate reheaters, feedwater heat
4 exchangers, high pressure turbines, and main generator/exciter in June 2014.
5 DEF also plans to conduct auctions for minor EPU components throughout the
6 course of 2014. *See* Exhibit No. ____ (MRD-7). 2014 disposition schedules are
7 currently being developed for the remaining EPU assets.

8
9 **Q. Can you describe the process for conducting a bid event?**

10 A. Yes. The Duke Energy Supply Chain, in association with the IRP group, is
11 coordinating and scheduling the EPU asset bid events. First, Supply Chain
12 creates an information package regarding each piece or pieces of EPU equipment
13 to be dispositioned. Second, Supply Chain solicits interest from potential buyers
14 including, among others, utilities, companies, resellers, the original manufacturer,
15 and scrappers. Third, a bidders list is created from the interested parties. Fourth,
16 the bid event is created in Power Advocate, or an equivalent bidding tool, and sent
17 out to the bidders list. There is then a period of time for potential bidder review
18 of the components and then a period of time for DEF's analysis of the responses
19 and negotiations with any potential buyers.

20
21 **Q. Are there any other efforts by Duke Energy to disposition the EPU assets?**

22 A. Yes. DEF is working with "PIM" or Pooled Inventory Management to identify
23 appropriate components to market. PIM is a program run by the Southern

1 Company where mainly large, critical utility equipment can be marketed to see if
2 any utilities have an interest in pooling resources to purchase and preserve the
3 equipment to keep as inventory, or a “spare,” in the event any of the utilities need
4 that component in the future. At that time, the utility that needs the equipment
5 can “buy out” the other utilities that had originally pooled their resources to
6 purchase and preserve the equipment. Major EPU components such as the MSR’s
7 and FWHE’s are being marketed to PIM.

8

9 **Q. How is DEF documenting the EPU asset disposition decisions?**

10 A. Procedure AI-9010 outlines the asset pricing requirements, minimum reviews and
11 approvals required for the execution of transactions, and the record keeping
12 requirements necessary for the disposition of EPU assets. More specifically, IRP
13 disposition decision documentation will include completed AI-9010 forms;
14 Affiliate Asset Transfer (AAT) eForms, as applicable; Buyer Contract Purchase
15 orders; Request for Proposal (“RFP”) documents; RFP reviews; and RFP
16 justifications. Supporting documentation of the decisions, such as justification of
17 due diligence when engineered components do not generate any market interest, is
18 also developed, as applicable.

19

20 **Q. When does DEF expect to disposition all EPU related assets?**

21 A. Currently the IRP team expects to disposition all EPU related assets by the end of
22 2014, with minimal wind-down activities continuing into 2015.

23

1 **Q. Has DEF ensured that credits related to sale of EPU assets are credited back**
2 **to customers?**

3 A. Yes. Where appropriate, EPU components have been physically segregated from
4 other CR3 components for disposition to ensure they are tracked and accounted
5 for correctly. In addition, all EPU asset disposition credits will be directed to a
6 unique project number created for EPU component dispositions, with the
7 exception of the POD items, which will be credited back directly to the POD
8 project numbers. Credits allocated to the EPU will then be applied through the
9 NCRC to reduce the remaining unrecovered investment.

10
11 **IV. EPU ACTUAL/ESTIMATED 2014 AND PROJECTED 2015 COSTS.**

12 **Q. What are the actual/estimated costs for the EPU project wind-down in 2014?**

13 A. The total actual /estimated costs for the EPU project wind-down in 2014 are
14 \$711,829, which are less than the \$3.1 million total costs shown on line 1a
15 Schedule 2014 Detail. The difference between the \$711,829 total
16 actual/estimated EPU costs in 2014 and the \$3.1 million in total costs shown on
17 line 1a Schedule 2014 Detail of \$2.6 million reflects an accounting adjustment
18 for an expense incurred and cash paid in a previous period that did not have an
19 offsetting accrual adjustment. There is no impact to revenue requirements, as
20 described by Mr. Foster in his direct testimony. The total 2014 actual/estimated
21 EPU project wind-down costs reflect the EPU Construction balance and Wind-
22 down costs, exclusive of joint owner credits, as referenced on lines 1a and 9a—c
23 of Schedule 2014 Detail of Mr. Foster's Exhibit No. ___(TGF-5). DEF does not

1 include in this filing any estimated costs or credits related to salvage or scrap
2 value because DEF cannot reasonably estimate these costs or credits at this time.
3 Any proceeds from the sale of EPU-related assets, however, will be credited
4 through the NCRC to reduce the remaining unrecovered investment.

5
6 **Q. What costs are projected to be incurred for EPU project wind-down**
7 **activities in 2015?**

8 A. As shown on lines 1a and 7 a—c of Schedule 2015 Detail of Mr. Foster's Exhibit
9 No. __ (TGF-5), the 2015 projected EPU wind-down costs are estimated at
10 \$351,287 in the category of EPU Wind-down.

11
12 **Q. What activities are associated with these 2014 actual/estimated and 2015**
13 **projected EPU Wind-down costs?**

14 A. EPU project wind-down costs were incurred in 2014 and will continue to be
15 incurred in 2015 for periodic maintenance and preservation of uninstalled EPU
16 LLE assets, demobilization expenses related to EPU equipment asset integrity
17 management for hurricane preparation and storage, and associated regulatory and
18 administrative support

19
20
21

1 **Q. Are the actual/estimated 2014 and projected 2015 costs for the EPU project**
2 **separate and apart from costs that DEF would have incurred to operate CR3**
3 **or to decommission the plant?**

4 A. Yes, they are. DEF included for recovery in this proceeding only those costs that
5 were incurred or that will be incurred solely for EPU wind-down and asset
6 maintenance activities. No costs are included in this request for decommissioning
7 the plant.

8
9 **V. PROJECT MANAGEMENT AND COST CONTROL OVERSIGHT.**

10 **Q. Has the Company implemented any additional project management and cost**
11 **control oversight mechanisms for the EPU since your testimony was filed on**
12 **March 3, 2014?**

13 A. In 2014, DEF issued the Investment Recovery Guidance Document IRGD-001,
14 *Sales Track Guidance and Documentation Package Development*. See Exhibit
15 No. ___(MRD-8) to my testimony. This document provides additional instruction
16 to conduct sales and develop complete documentation packages for the IRP.
17 Otherwise, the Company has not implemented any significant, additional project
18 management or cost control oversight policies or procedures for the EPU since
19 my March 3, 2014 direct testimony. The Company continues to utilize the
20 Company policies and procedures and specific IRP process and procedures that I
21 described in my March 3, 2014 testimony to ensure that wind-down costs for the
22 EPU are reasonably and prudently incurred.

23

1 **VI. CONCLUSION.**

2 **Q. Are DEF's EPU project wind-down costs in 2014 and 2015 reasonable?**

3 A. Yes they are. DEF is currently working through its Supply Chain and Investment
4 Recovery organizations to ensure that wind-down of the EPU project and
5 disposition of assets is in accordance with DEF's policies and procedures. Bid
6 events are being developed and conducted for all appropriate EPU components.
7 Moreover, any proceeds from the sale or salvage of EPU-related assets will be
8 credited through the NCRC to reduce the remaining unrecovered investment.
9 Only those costs that are reasonable and prudent project exit or wind-down costs
10 were or will be incurred in 2014 and 2015. For these reasons, as more fully
11 explained above, these costs are reasonable to facilitate the prudent wind-down of
12 the EPU project and should be approved for recovery.

13
14 **Q. Does this conclude your testimony?**

15 A. Yes, it does.

1 **MR. YOUNG:** With that, Mr. Chairman, staff
2 moves Witness Ronald A. Mavrides' prefiled testimony
3 and -- prefiled testimony into the record as though
4 read.

5 **COMMISSIONER BRISÉ:** Okay. So we will move
6 Mr. Mavrides' testimony into the record as though read.

7 **MR. YOUNG:** Also, Mr. Mavrides has two
8 exhibits, Witness Mavrides has two exhibits, 27 and 28,
9 into the record.

10 **COMMISSIONER BRISÉ:** Okay. So we will move
11 Exhibits 27 and 28 into the record as though read. I
12 mean, not as though read. Into the record. Sorry.

13 (Exhibits 27 and 28 admitted into the record.)
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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION
COMMISSION STAFF
DIRECT TESTIMONY OF RONALD A. MAVRIDES
DOCKET NO. 140009-EI

June 20, 2014

Q. Please state your name and business address.

A. My name is Ronald A. Mavrides. My business address is 4950 West Kennedy Blvd., Suite 310, Tampa, Florida 33609.

Q. By whom are you presently employed and in what capacity?

A. I am employed by the Florida Public Service Commission (FPSC or Commission) as a Public Utility Analyst II in the Office of Auditing and Performance Analysis.

Q. Briefly review your educational and professional background.

A. I received a Bachelor of Science Degree in accounting from the University of Central Florida in 1990. I am also a Certified Internal Auditor, Certified Government Auditing Professional and a Certified Management Accountant licensed in the State of Florida. I have been employed by the FPSC since October 2007.

Q. Please describe your current responsibilities.

A. Currently, I am a Public Utilities Analyst II with the responsibilities of managing regulated utility financial audits. I am also responsible for creating audit work programs to meet a specific audit purpose.

Q. Have you previously presented testimony before this Commission?

A. Yes. I presented testimony in the Fuel and Purchased Power Cost Recovery Clause Docket Nos. 090001-EI and 110001-EI.

Q. What is the purpose of your testimony today?

A. The purpose of my testimony is to sponsor two staff audit reports of Duke

1 Energy Florida, Inc. (DEF or Utility) which address the Utility's nuclear uprate activities and
2 cost recovery for 2013. The first audit report was issued June 11, 2014, and addressed the pre-
3 construction and construction costs as of December 31, 2013, for Levy Nuclear Units 1 & 2
4 (Levy 1 & 2). This audit report is filed with my testimony and is identified as Exhibit RAM-
5 1.

6 The second audit report was also issued on June 11, 2014, and addressed the close out uprate
7 costs for Crystal River Unit 3 (CR3) as of December 31, 2013. The audit report is filed with
8 my testimony and is identified as Exhibit RAM-2.

9 **Q. Were these audits prepared by you or under your direction?**

10 A. Yes, both audits were prepared by me or under my direction.

11 **Q. Please describe the work performed in both audits.**

12 A. The first audit report addresses the pre-construction and construction costs as of
13 December 31, 2013, for Levy 1 & 2:

- 14 • We reconciled the Utility's filing to its general ledger and verified that the costs incurred
15 were posted to the proper accounts.
- 16 • We sorted the preconstruction and construction costs transactions by generation and
17 transmission costs. The beginning balances of the preconstruction and construction costs
18 were reconciled with the ending balances for the preconstruction and construction costs of
19 the prior year filing.
- 20 • We selected a sample of preconstruction and construction transactions from the transaction
21 details list and tested them for: 1) Compliance with contracts, 2) Correct paid amounts,
22 and 3) Correct recording periods.
- 23 • We reconciled the transaction detail amounts to the filing and to the general ledger.
- 24 • We sorted Operation and Maintenance (O&M) Expense by functional expense category
25 and reconciled to the filing.

- 1 • We selected costs from the transaction details and reviewed them for the proper period,
- 2 amounts, and whether they are allowable Nuclear Cost Recovery Clause costs.
- 3 • We also selected three months of labor costs for sampling. We verified the hours worked
- 4 and recalculated the labor charges recorded by the Utility.

5 The second audit report addresses the construction close out costs as of December 31, 2013,
 6 for CR3:

- 7 • We reconciled the Utility’s transaction details to its general ledger and filing.
- 8 • We selected transactions from the transaction details and tested them for: 1) Correct paid
- 9 amounts, 3) Compliance with contracts, and 3) Correct recording periods.
- 10 • We sorted O&M Expense by functional expense category and reconciled O&M Expense
- 11 to the Utility’s filing.
- 12 • We selected costs from the transaction details and reviewed them for the proper period,
- 13 amounts, and whether they are allowable Nuclear Cost Recovery Clause costs.
- 14 • We also selected three months of labor costs for sampling. We verified the hours worked
- 15 and recalculated the labor charges recorded by the Utility.

16 **Q. Please review the audit findings in the audit report, Exhibit RAM-1.**

17 A. There were no findings in this audit.

18 **Q. Please review the audit findings in the audit report, Exhibit RAM-2.**

19 A. There were no findings in this audit.

20 **Q. Does this conclude your testimony?**

21 A. Yes.

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1 **MR. YOUNG:** Next, Mr. Chairman, staff moves
2 Jeffery A. Small's prefiled testimony into the record as
3 though read.

4 **COMMISSIONER BRISÉ:** Okay. We will move
5 Mr. Jeffery A. Small's testimony into the record as
6 though read.

7 **MR. YOUNG:** And Mr. Small, Witness Small has
8 two exhibits, 29 and 30, and we ask that those be moved
9 into the record at this time.

10 **COMMISSIONER BRISÉ:** So we will move
11 Mr. Small's Exhibits 29 and 30 into the record.

12 (Exhibit 29 and 30 admitted into the record.)

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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

COMMISSION STAFF

DIRECT TESTIMONY OF JEFFERY A. SMALL

DOCKET NO. 140009-EI

JUNE 20, 2014

Q. Please state your name and business address.

A. My name is Jeffery A. Small and my business address is 3625 N.W. 82nd Ave., Suite 400, Miami, Florida, 33166.

Q. By whom are you presently employed and in what capacity?

A. I am employed by the Florida Public Service Commission (FPSC or Commission) as a Regulatory Analyst Supervisor in the Office of Auditing and Performance Analysis.

Q. How long have you been employed by the Commission?

A. I have been employed by the Commission since January 1994.

Q. Briefly review your educational and professional background.

A. I have a Bachelor of Science degree in Accounting from the University of South Florida. I am also a Certified Public Accountant licensed in the State of Florida.

Q. Please describe your current responsibilities.

A. Currently, I am a Regulatory Analyst Supervisor with the responsibilities of administering the District Office and reviewing work load and allocating resources to complete field work and issue audit reports when due. I also supervise, plan, and conduct utility audits of manual and automated accounting systems for historical and forecasted data.

Q. Have you presented expert testimony before this Commission or any other regulatory agency?

A. Yes. I have provided testimony in the Duke Energy Florida, Inc. (DEF or Utility), Nuclear Cost Recovery Clause (NCRC) filings, Docket Nos. 080009-EI, 090009-EI, 100009-

1 EI, 110009-EI, 120009-EI, and 130009-EI.

2 I have also testified in the Southern States Utilities, Inc. rate case, Docket No. 950495-WS, the
3 transfer application of Cypress Lakes Utilities, Inc., Docket No. 971220-WS, and the Utilities,
4 Inc. of Florida rate case, Docket No. 020071-WS.

5 **Q. What is the purpose of your testimony today?**

6 A. The purpose of my testimony is to sponsor two staff audit reports of DEF. These
7 exhibits were originally attached to the testimony filed in Docket No. 130009-EI. In Order
8 No. PSC-13-0493-FOF-EI, the Commission approved DEF's request for deferral of rulings on
9 Crystal River Unit 3 (CR3) Uprate project and Levy Nuclear Project (LNP) issues. On page 5
10 of the order, the Commission specified that "By approving this Motion, our consideration of
11 ... specific issues will be deferred to next year's NCRC or fully resolved through our decision
12 regarding the 2013 Settlement Agreement." We have again filed the 2013 audits to assist the
13 Commission to address the deferred issues in Docket No. 140009-EI. The two audit reports
14 address the Utility's application for nuclear cost recovery in 2012. The first audit report was
15 issued May 24, 2013, and addressed the pre-construction and construction cost as of
16 December 31, 2012, for the LNP. This audit report is filed with my testimony and is
17 identified as Exhibit JAS-1. The second audit report was issued May 17, 2013, and addressed
18 the 2012 power uprate costs for the CR3 nuclear power plant. This audit report is filed with
19 my testimony and is identified as Exhibit JAS-2.

20 **Q. Were these audits prepared by you or under your direction?**

21 A. Yes, both audits were prepared by me or under my direction.

22 **Q. Please describe the work you performed in both audits.**

23 The first audit report addresses the pre-construction and construction costs as of December 31,
24 2012, for the LNP:

25 • We reconciled DEF's filing to its general ledger and verified that the costs incurred were

1 posted to the proper accounts.

2 • We reconciled and recalculated a sample of the monthly revenue requirement accruals
3 displayed on Schedule T-1 to the supporting schedules in DEF's 2012 NCRC filing.

4 • We reconciled the monthly preconstruction, and construction carrying cost balances
5 displayed on Schedules T-2.2, and T-2.3, respectively, to the supporting schedules in
6 DEF's 2012 NCRC filing. We recalculated the schedules and reconciled the Allowance
7 for Funds Used During Construction (AFUDC) rates applied by DEF to the rates approved
8 in Order No. PSC-05-0945-S-EI, in Docket No. 050078-EI, issued September 28, 2005.

9 • We reconciled the monthly preconstruction deferred tax carrying cost accruals displayed
10 on Schedule T-3A.2 to the supporting schedules in DEF's 2012 NCRC filing. We
11 recalculated a sample of the monthly carrying cost balances for deferred tax assets based
12 on the equity and debt components established in Order No. PSC-05-0945-S-EI.

13 • We recalculated a sample of the monthly recoverable Operation & Maintenance (O&M)
14 expenditures displayed on Schedule T-4 of DEF's 2012 NCRC filing. We sampled and
15 verified the O&M cost accruals and traced the invoiced amounts to supporting
16 documentation. We verified a sample of salary expense accruals and recalculated the
17 respective overhead burdens DEF applied.

18 • We recalculated a sample of monthly jurisdictional nuclear construction accruals displayed
19 on Schedules T-6.2, and T-6.3, respectively, of DEF's 2012 NCRC filing. We sampled
20 and verified the generation cost accruals and traced the invoiced amounts to supporting
21 documentation. We verified a sample of salary expense accruals and recalculated a
22 sample of the respective overhead burdens that DEF applied.

23 The second audit report addresses the uprate cost as of December 31, 2012, for CR3:

24 • We reconciled DEF's filing to its general ledger and verified that the costs incurred were
25 posted to the proper accounts.

- 1 • We reconciled and recalculated a sample of the monthly revenue requirement accruals
2 displayed on Schedule T-1 to the supporting schedules in DEF's 2012 NCRC filing.
- 3 • We reconciled the monthly construction carrying cost balances displayed on Schedule T-
4 2.3 to the supporting schedules in DEF's 2012 NCRC filing. We recalculated the schedule
5 and reconciled the AFUDC rates applied by DEF to the rates approved in Order No. PSC-
6 05-0945-S-EI.
- 7 • We reconciled the monthly construction deferred tax carrying cost accruals displayed on
8 Schedule T-3A.3 to the supporting schedules in DEF's 2012 NCRC filing. We
9 recalculated a sample of the monthly carrying cost balances for deferred tax assets based
10 on the equity and debt components established in Order No. PSC-05-0945-S-EI.
- 11 • We reconciled and recalculated a sample of the monthly Construction Period Interest
12 (CPI) accruals displayed on Schedule T-3B.3 to the supporting schedules in DEF's 2012
13 NCRC filing. We recalculated DEF's CPI rate and reconciled the component balances to
14 its general ledger.
- 15 • We recalculated a sample of the monthly recoverable O&M expenditures displayed on
16 Schedule T-4 of DEF's 2012 NCRC filing. We sampled and verified the O&M cost
17 expenditures and traced the invoiced amounts to supporting documentation. We verified a
18 sample of salary expense accruals and recalculated the respective overhead burdens DEF
19 applied.
- 20 • We recalculated a sample of monthly jurisdictional nuclear construction accruals displayed
21 on Schedule T-6.3 of DEF's 2012 NCRC filing. We sampled and verified the capital cost
22 expenditures and traced the invoiced amounts to supporting documentation. We verified a
23 sample of salary expense accruals and recalculated the respective overhead burdens that
24 DEF applied.

25 **Q. Were there any audit findings in the audit report, JAS-1, which addresses the**

1 **2012 pre-construction and construction cost for the LNP?**

2 **A.** No.

3 **Q.** Were there any audit findings in the audit report, JAS-2, which addresses the

4 **2012 power uprate costs for CR3?**

5 **A.** No.

6 **Q.** Does this conclude your testimony?

7 **A.** Yes, it does.

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1 **MR. YOUNG:** Next, staff requests that the
2 prefiled, joint prefiled testimony of Witness Coston and
3 Fisher, William Coston and Lynn Fisher, be moved into
4 the record as though read.

5 **COMMISSIONER BRISÉ:** Okay. At this time we
6 will move the testimony of Mr. Coston and Mr. Fisher
7 into the record as though read.

8 **MR. YOUNG:** And we ask that the Exhibit Number
9 31 be moved into the record.

10 **COMMISSIONER BRISÉ:** Okay. So we move Exhibit
11 31 into the record.

12 (Exhibit 31 admitted into the record.)
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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION
COMMISSION STAFF
DIRECT JOINT TESTIMONY OF
WILLIAM COSTON AND LYNN FISHER
DOCKET NO. 140009-EI
JUNE 20, 2014

Q. Mr. Coston, please state your name and business address.

A. My name is William Coston. My business address is 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850.

Q. By whom are you employed?

A. I am employed by the Florida Public Service Commission (Commission) as a Public Utilities Analyst IV, within the Office of Auditing and Performance Analysis.

Q. What are your current duties and responsibilities?

A. I perform audits and investigations of Commission-regulated utilities, focusing on the effectiveness of management and company practices, adherence to company procedures, and the adequacy of internal controls. Mr. Fisher and I jointly conducted the 2014 audit of Duke Energy Florida, Inc.'s (DEF) project management internal controls for the close-out of the Extended Power Uprate (EPU) project at Crystal River Unit 3 and for the Levy Nuclear Project.

Q. Please describe your educational and relevant experience.

A. I earned Bachelor of Arts and Master of Public Administration degrees from Valdosta State University. I have worked for the Commission for eleven years conducting operations audits and investigations of regulated utilities. Prior to my employment with the Commission, I worked for six years at Bank of America in the Global Corporate and Investment Banking

1 | division.

2 | **Q. Have you filed testimony in any other dockets before the Commission?**

3 | A. Yes. I filed similar testimony in the Docket No. 090009-EI, 100009-EI, 110009-EI,
4 | 120009-EI and 130009-EI. This prior testimony addressed the audits of DEF's project
5 | management internal controls for the nuclear plant uprate at the Crystal River Unit 3 and the
6 | Levy Nuclear Project for the years 2009 through 2013. Additionally, in 2005 I filed testimony
7 | in Docket No. 050078-EI, which addressed Progress Energy Florida's vegetation
8 | management, lightning protection, and pole inspection processes.

9 | **Q. Mr. Fisher, please state your name and business address.**

10 | A. My name is Lynn Fisher. My business address is 2540 Shumard Oak Boulevard,
11 | Tallahassee, Florida 32399-0850.

12 | **Q. By whom are you employed?**

13 | A. I am employed by the Florida Public Service Commission as a Government Analyst II,
14 | within the Office of Auditing and Performance Analysis.

15 | **Q. What are your current duties and responsibilities?**

16 | A. I perform audits and investigations of Commission-regulated utilities, focusing on the
17 | effectiveness of management and company practices, adherence to company procedures, and
18 | the adequacy of internal controls. This year Mr. Coston and I jointly conducted the 2014 audit
19 | of DEF's project management internal controls for the EPU project at Crystal River Unit 3 and
20 | the Levy Nuclear Project.

21 | **Q. Please describe your educational and relevant experience.**

22 | A. In 1972, I graduated from Florida State University with a Bachelor of Science degree in
23 | Marketing. My relevant background includes over twenty years with the Florida Public
24 | Service Commission in management auditing, performance analysis, process audits, and
25 | complaint investigation. Since joining the Commission, I have participated in numerous

1 reviews of utility operations, systems, and controls, culminated in a written audit report
2 similar to the one attached as an exhibit to this testimony. I also participated in several
3 reviews of FPL's project management controls for its nuclear plant uprate and new
4 construction projects.

5 **Q. Have you filed testimony in any other dockets before the Commission?**

6 A. Yes. I have jointly filed similar testimony in Nuclear Cost Recovery Clause Dockets
7 No. 080009-EI, 090009-EI, 100009-EI, 110009-EI, 120009-EI and 130009-EI. This prior
8 testimony addressed FPL's project management internal controls for the nuclear plant uprate
9 projects at St Lucie Units 1&2 and Turkey Point Units 3&4. Additionally, in 2005 I filed
10 testimony in Docket No. 050045-EI, which addressed Florida Power & Light Company's
11 vegetation management, lightning protection, and pole inspection processes.

12 **Q. Please describe the purpose of your testimony in this docket.**

13 A. Our testimony presents the attached confidential audit report entitled *Review of Duke*
14 *Energy Florida, Inc.'s Project Management Internal Controls for Nuclear Plant Uprate and*
15 *Construction Projects* (Exhibit CF-1). This audit was completed to assist with the evaluations
16 of nuclear cost recovery filings. The report describes key project events and contract activities
17 completed during 2013 through April 2014 for the Crystal River 3 Uprate project and the Levy
18 Nuclear Project. The report also describes and assesses project management internal controls
19 employed by DEF to close out the EPU project..

20 **Q. Please summarize the areas examined by your review.**

21 A. The Office of Auditing and Performance Analysis conducted an audit of the internal
22 controls and management oversight for close-out of the CR3 EPU project, and activities
23 around the Levy Nuclear Project.

24 The audit focuses on the organization, processes, and controls used by the company to
25 execute the EPU project close-out at CR3, and the actions, activities, support processes, and

1 key activities around the Levy Nuclear Project.

2 The primary objective of this audit was to assess and evaluate key project
3 developments, along with the organization, management, internal controls, and oversight that
4 DEF used or plans to employ for these projects. The internal controls examined were related
5 to the following key areas of project activity: planning, management and organization, cost
6 and schedule controls, contractor selection and management, and auditing and quality
7 assurance.

8 **Q. Are you sponsoring any exhibits?**

9 A. Yes, our audit report is attached as Exhibit CF-1. The audit report's observations are
10 summarized in the Executive Summary chapter for both the Extended Power Uprate project
11 and the Levy Nuclear Project.

12 **Q. Does this conclude your testimony?**

13 A. Yes.

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1 **MR. YOUNG:** Finally, Mr. Chairman, we ask that
2 the prefiled testimony of Mr. Coston, William Coston and
3 Jerry Hallenstein be moved into the, be moved in the
4 record as though read.

5 **COMMISSIONER BRISÉ:** Okay. So we move the
6 testimony of William Coston and Jerry Hallenstein into
7 the record as though read.

8 **MR. YOUNG:** Along with that, Mr. Chairman,
9 they have an exhibit, Number 32, and we ask that that be
10 moved into the record.

11 **COMMISSIONER BRISÉ:** Okay. So we will move
12 Exhibit 32 into the record.

13 (Exhibit 32 admitted into the record.)
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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION
COMMISSION STAFF
DIRECT JOINT TESTIMONY OF
WILLIAM COSTON AND JERRY HALLENSTEIN
DOCKET NO. 140009-EI
JUNE 20, 2014

Q. Mr. Coston, please state your name and business address.

A. My name is William Coston. My business address is 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850.

Q. By whom are you employed?

A. I am employed by the Florida Public Service Commission (Commission) as a Public Utilities Analyst IV, within the Office of Auditing and Performance Analysis.

Q. What are your current duties and responsibilities?

A. I perform audits and investigations of Commission-regulated utilities, focusing on the effectiveness of management and company practices, adherence to company procedures, and the adequacy of internal controls. Mr. Hallenstein and I jointly conducted the 2013 audit of Duke Energy Florida, Inc.'s (DEF) project management internal controls for the Extended Power Uprate (EPU) project at the Crystal River Unit 3 (CR3) and Levy Nuclear Project (LNP.)

Q. Please describe your educational and relevant experience.

A. I earned Bachelor of Arts and Master of Public Administration degrees from Valdosta State University. I have worked for the Commission for eleven years conducting operations audits and investigations of regulated utilities. Prior to my employment with the Commission, I worked for six years at Bank of America in the Global Corporate and Investment Banking

1 division.

2 **Q. Have you filed testimony in any other dockets before the Commission?**

3 A. Yes. I filed similar testimony in Docket No. 090009-EI, 100009-EI, 110009-EI,
4 120009-EI and 130009-EI. This prior testimony addressed the audits of DEF's project
5 management internal controls for the nuclear plant uprate at the CR3 and LPN for the years
6 2009 through 2013. Additionally, in 2005, I filed testimony in Docket No. 050078-EI, which
7 addressed an audit of distribution electric service quality for Progress Energy Florida's
8 vegetation management, lightning protection, and pole inspection processes.

9 **Q. Mr. Hallenstein, please state your name and business address.**

10 A. My name is Jerry Hallenstein. My business address is 2540 Shumard Oak Boulevard,
11 Tallahassee, Florida 32399-0850.

12 **Q. By whom are you employed?**

13 A. I am employed by the Commission as a Senior Analyst, within the Office of Auditing
14 and Performance Analysis.

15 **Q. What are your current duties and responsibilities?**

16 A. I perform audits and investigations of Commission-regulated utilities, focusing on the
17 effectiveness of management and company practices, adherence to company procedures, and
18 the adequacy of internal controls. Mr. Coston and I jointly conducted the 2013 audit of DEF's
19 project management internal controls for the nuclear plant uprate at CR3 and new construction
20 underway for the LNP.

21 **Q. Please describe your educational and relevant experience.**

22 A. I earned a Bachelor of Science in Finance from Florida State University in 1985. I
23 have worked for the Commission for twenty-four years conducting operations audits and
24 investigations of regulated utilities. Prior to my employment with the Commission, I worked
25 for five years at Ben Johnson Associates, a consulting firm that specializes in providing

1 economic and research services to state regulatory commissions.

2 **Q. Have you filed testimony in any other dockets before the Commission?**

3 A. Yes. I filed similar testimony in Docket No. 120009-EI. This testimony addressed the
4 audits of DEF's project management internal controls for the nuclear plant uprate at CR3 and
5 the LNP for the year 2012. Additionally, I filed testimony in Docket 981488-TI, with an audit
6 I conducted regarding the billing and sales practices of Accutel Communications, a reseller of
7 telecommunications services.

8 **Q. Please describe the purpose of this testimony.**

9 A. Our testimony presents the attached confidential June 2013 audit report entitled *Review*
10 *of Duke Energy Florida, Inc.'s Project Management Internal Controls for Nuclear Plant*
11 *Uprate and Construction Projects* (Exhibit CH-1). This exhibit was originally attached to our
12 testimony filed in Docket No. 130009-EI. In Order No. PSC-13-0493-FOF-EI, the
13 Commission approved DEF's request for deferral of rulings on CR3 Uprate project and LNP
14 issues. On page 5 of the order, the Commission specified that "By approving this Motion, our
15 consideration of . . . specific issues will be deferred to next year's NCRC or fully resolved
16 through our decision regarding the 2013 Settlement Agreement." We have again filed this
17 2013 audit to assist the Commission as it addressed the deferred issues in Docket No. 140009-
18 EI.

19 The report describes key project events and contract activities completed during 2012
20 through April 2013 for the CR3 Uprate project and the LNP. The report also presents
21 descriptions of the project management internal controls employed by DEF during that time
22 period.

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24 **Q. Please summarize the areas examined by your 2013 review.**

25 A. The Office of Auditing and Performance Analysis conducted an audit of the internal

1 controls and management oversight of the nuclear projects underway at DEF. This is an
2 ongoing annual review that examines the organizations, processes, and controls being used by
3 the company to execute the Extended Power Uprate of Unit 3 at the Crystal River Energy
4 Complex and the construction of Levy Nuclear Plant Unit 1 and Unit 2. The previous reviews
5 were filed annually, since 2008, in the Nuclear Cost Recovery Clause dockets before the
6 Commission.

7 The primary objective of this audit was to assess and evaluate key project
8 developments, along with the organization, management, internal controls, and oversight that
9 DEF has in place or plans to employ for these projects. The internal controls examined were
10 related to the following key areas of project activity: planning, management and organization,
11 cost and schedule controls, contractor selection and management, and auditing and quality
12 assurance.

13 **Q. Are you sponsoring any exhibits?**

14 A. Yes, our audit report is attached as Exhibit CH-1. The audit report's observations are
15 summarized in the Executive Summary chapter for both the Extended Power Uprate project
16 and the Levy Nuclear Project.

17 **Q. Does this conclude your testimony?**

18 A. Yes.

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1 **COMMISSIONER BRISÉ:** All right. Anything
2 else?

3 **MR. YOUNG:** No, sir. I think we're on opening
4 statements.

5 **COMMISSIONER BRISÉ:** All right. At this time,
6 per the Prehearing Officer, opening statements shall not
7 exceed ten minutes for Duke Energy Florida and five
8 minutes per Intervenor.

9 Okay. So, Duke Energy, you have the floor.

10 **MR. WALLS:** Good afternoon, Commissioners.
11 What remains for us now today at this hearing is the
12 Levy project, but let me start with what party disputes
13 about the Levy project.

14 No party disputes the actual costs that Duke
15 Energy Florida incurred for the project in '12, 2012 and
16 2013, no party disputes the projected exit and wind-down
17 costs that Duke Energy Florida has presented for
18 recovery for 2014 and '15, and no party disputes the
19 project management contracting and cost oversight
20 controls for 2012 and '13 on the Levy project.

21 Additionally, Duke Energy Florida has
22 presented its request consistent with the 2013 revised
23 and restated settlement agreement and has appropriately
24 removed all Levy combined operating license costs from
25 its 2014 filing, and no party has presented any evidence

1 or issue regarding that. Further, the staff has
2 conducted extensive audits of both the Levy project and
3 the financial on the project, and there were no adverse
4 findings.

5 So why are we here? OPC has raised two issues
6 in this case regarding the project. One issue relates
7 to Duke Energy's Florida's claim against Westinghouse
8 Electric Company in North Carolina federal court to
9 attempt to obtain a refund for customers of long lead
10 equipment payments that were made to Westinghouse in
11 2008 and '09.

12 The second issue is OPC asked whether the
13 Commission should prospectively put restrictions on Duke
14 Energy Florida's actions to prudently dispose of the
15 remaining Levy long lead equipment.

16 DEF submits that these issues contain legal
17 threshold requirements that will be addressed in the
18 post-hearing brief and that the Commission should take
19 no action on these issues at this time.

20 Briefly though, DEF's claim for a refund from
21 WEC, or Westinghouse Electric Corporation, is contingent
22 on the outcome of the North Carolina litigation, and
23 that litigation is properly before a federal district
24 court judge who will decide that matter. Certainly
25 there is no need for prospective restrictions on DEF's

1 ability to reasonably and prudently disposition the
2 remaining Levy long lead equipment, even if the
3 Commission had that power, which we believe it does not,
4 because DEF must still come before this Commission and
5 demonstrate that it has reasonably and prudently
6 incurred disposition costs.

7 So those are the main issues, those are our
8 positions on those issues. And today we have with us
9 Duke Energy Florida's Director of Rates and Regulatory
10 Strategy, Thomas Geoff Foster, and Duke Energy Florida's
11 Vice President of Nuclear Development, Christopher
12 Fallon, for any questions you may have. Thank you.

13 **COMMISSIONER BRISÉ:** Thank you very much.

14 All right. The Office of Public Counsel, Mr.
15 Rehwinkel.

16 **MR. REHWINKEL:** Thank you, Mr. Chairman,
17 Commissioners. Today, on behalf of the long suffering
18 customers of Duke Energy Florida, we ask you to take an
19 important step to protect them from a looming storm.
20 Now, as it seems that there will be a little daylight in
21 the six-year long nuclear nightmare that the Duke
22 customers have suffered, dark clouds loom on the
23 horizon. These clouds are in the form of an absurd and
24 shameful \$512 million claim that Westinghouse has
25 brought in a distant federal court to try to extract

1 more money from customers by using the NCRC for a
2 project that it will never build for those customers --
3 this, even as Westinghouse boasts of building 26 more
4 reactors for China.

5 As you know, Duke finally took an important
6 step to put the doomed LNP project out of its misery.
7 Exactly one year ago it agreed, in the 2013 global
8 settlement, that it would cancel the LNP project and
9 cancel the EPC contract for cause. On January 28th of
10 this year they did that; they canceled the EPC contract.

11 Importantly, that 2013 settlement relied on a
12 \$350 million estimate of wind-down costs and the
13 remaining amortization of prior Commission-approved
14 costs as the basis for continuation of the
15 \$3.45 recovery charge that was expected to terminate by
16 the end of 2016, if not sooner. The good news is that
17 based on all the costs that you have reviewed and
18 approved, the company now projects that this
19 \$3.45 charge will fully recover those costs that you
20 have approved sometime early in 2016 -- perhaps January
21 of 2016, if my math is correct. That sounds good.

22 Well, not so fast. Naturally there is a
23 true-up provision that was intended to allow cleanup and
24 refinement of the total costs under the EPC. As
25 signatories to the settlement, the Intervenorers relied on

1 prior NCRC testimony of the company as to the remaining
2 costs to be recovered. The \$350 million estimate fully
3 covered these costs.

4 The looming storm that I refer to is
5 Westinghouse's cynical effort to try to exploit that
6 true-up in a way that it was never intended to be -- by
7 cramming \$500 million of mysterious costs down the
8 throats of Florida customers. Duke's estimate that by
9 the end of 2015 only \$6.1 million remains to be
10 collected is based on costs that you have already
11 approved. At this point that estimate does not take
12 into consideration the \$54 million in costs that you
13 have approved for which Duke is now demanding a refund
14 from Westinghouse on the basis that Westinghouse did not
15 do the work for which those funds -- for those funds
16 that was expected under the contract.

17 Our case today is primarily about this
18 \$54 million, and our request is that you direct Duke to
19 credit this amount to the benefit of customers in
20 January of 2014, the date of the EPC termination. We
21 are asking you to do this because these are costs that
22 you approved and that the customers were saddled with
23 even though nothing was ever done to earn that money.

24 We commend and agree with Duke's demand that
25 Westinghouse should refund the unearned payments now

1 that the EPC is terminated. We also think that if you
2 direct Duke to credit the customers' account for this
3 money, your decision will give Duke added motivation to
4 fully pursue the refund and it will send the right
5 signal to Westinghouse. And make no mistake about it,
6 they're watching you right now on that, on those cameras
7 on television, that the Commission will be highly
8 skeptical of anymore costs related to the LNP project.

9 We ask you to give Duke some skin in the game.
10 Costs like the \$54 million that you approved five years
11 ago in reliance that it would result in tangible assets
12 are in an entirely different qualitative category from
13 claim costs of the type that you have never seen before
14 and which are based on contract provisions that you
15 never approved.

16 **COMMISSIONER BRISÉ:** I don't want to mess up
17 your flow, but you have about a minute left.

18 **MR. REHWINKEL:** Okay. Tell Duke and
19 Westinghouse that you have a vested interest in that \$54
20 million since you relied on Duke in ordering the
21 customers to pay it in the first place. Listen to the
22 evidence, follow the money, look at the impact of this
23 refund in 2015. Perhaps you will decide that the LNP
24 charge can end in June of 2015.

25 We will argue to you in the briefs that based

1 on order PSC-13-0598 that there is precedent for Duke
2 advancing to customers the proceeds of a claim in a
3 clause without having a payment or check in hand.

4 Commissioners, we would ask you to take this
5 into consideration and do the right thing for the
6 customers. Thank you.

7 **COMMISSIONER BRISÉ:** All right. Thank you.
8 It.

9 **MR. REHWINKEL:** I think my timer and yours
10 coincided.

11 **COMMISSIONER BRISÉ:** Yeah, indeed.

12 (Laughter.)

13 Mr. Brew.

14 **MR. BREW:** Thank you, Commissioner. Good
15 afternoon. I think, like everyone here, I had high
16 hopes that the NCRC this year would be a non-event.
17 We're not disturbing the Levy cost recovery factor that
18 we agreed to in the rate settlement in '12 and '13. The
19 consumer parties and Duke are mostly in agreement on the
20 CR3 and other issues, which we've either stipulated to
21 or agreed should be deferred until next year when
22 they're more likely to be ripe for a decision.

23 Still the problem we have, as Mr. Rehwinkel
24 alluded to, is that Duke Energy's nuclear power program
25 is the gift that keeps on giving in terms of inflated

1 bills for consumers, and I just wanted to touch base a
2 little bit on, on that. The problem that I'm sure
3 you're very well aware of is that you're being asked to,
4 in many respects, with respect to key decisions. Duke
5 is not going to act until, until you bless their actions
6 where they've delayed some actions just to, to see where
7 they stand with the Commission. The problem is in these
8 dockets you have limited information and sometimes not
9 always complete information until it comes out later,
10 some of which we'll talk about later today.

11 And let's face it, you, the consumer parties,
12 we all -- there's a lot that we don't know about Duke's
13 ongoing relationship with Westinghouse beyond what
14 appears actually in, in the pleadings here. And I think
15 the only way to actually bring some common sense to this
16 is to dispense with the notion that Duke's interests and
17 consumer interests in this regard are aligned, and to
18 start making decisions based on the facts that are
19 actually in evidence. And we know for an established
20 fact that Duke announced a partial suspension of Levy in
21 2009 and that it suspended certain activities. We now
22 know for a fact in their pleadings that the \$54.1
23 million that Mr. Rehwinkel mentioned was for work that
24 was never, never performed at all because it was
25 suspended and it was not to be done.

1 The, the questions come up of when was Duke
2 actually going to tell you that there was work that was
3 never going to be done so that you can make an informed
4 decision through the process. And the answer is it's
5 not until they had actually terminated the EPC and made
6 the filing this year.

7 But the real problem is that with respect to
8 the suits between Duke and Westinghouse is it should be
9 Duke's problem. You are not being asked here, and
10 certainly PCS is not going to be asking you, to decide
11 the validity of Duke's claims against Westinghouse or to
12 anticipate or second guess what might eventually happen
13 in the federal courts, either through litigation or
14 settlement.

15 From our perspective, it's relatively simple:
16 You have two facts to decide, both of which are in
17 evidence and uncontested. The first is Duke's assertion
18 that the \$54 million relates to work that was never
19 performed. And for work that was never performed,
20 there's no basis in the Nuclear Cost Recovery Rule for
21 those dollars to be collected from consumers. Now
22 they've already been collected or mostly collected from
23 consumers, so OPC's recommendation that it be credited
24 is not only appropriate, but it's probably the only
25 thing that you can do under the rule.

1 The second is, the second fact is that from an
2 accounting perspective is those costs have been
3 reflected in what we've been paying for. So if you have
4 an admission by Duke that this was money that was billed
5 and approved -- billed by Westinghouse, paid by Duke,
6 and billed to the consumers for work that wasn't
7 performed, and now that you have that fact in hand, how
8 do you not respond to it? We don't think you can. We
9 think you need to make the adjustment that OPC has
10 recommended, which also has the effect of putting the,
11 the onus exactly where it belongs, which is upon Duke to
12 collect what it thinks it's owed back from Westinghouse
13 as opposed to leaving ratepayers as an insurer for
14 whatever Duke does.

15 **COMMISSIONER BRISÉ:** You have about a minute
16 left.

17 **MR. BREW:** That's all I need. Thank you very
18 much.

19 **COMMISSIONER BRISÉ:** All right. Thank you.
20 Mr. Moyle.

21 **MR. MOYLE:** Thank you. Thank you,
22 Mr. Chairman. Let me start by, by stating that FIPUG
23 has historically supported the development of nuclear
24 power, provided it can be done on time and within, you
25 know, a reasonable cost. Unfortunately we have not been

1 able to see nuclear power projects in Florida move
2 forward on time and within cost. And that, that would
3 probably stand for both FPL and Duke. But I just wanted
4 to start, start by making, making that point.

5 I wanted to respond to a point counsel for
6 Duke made, which he is correct, there are a number of
7 costs in Levy that he said, well, the parties haven't
8 disputed it. But I want to be clear, just because
9 there's no dispute doesn't mean that customers are happy
10 about that or, or accept it with a smile. I mean,
11 there's a statute that's in place that, that is very
12 constraining with respect to the arguments that
13 consumers could make, and it's kind of a hard-wired
14 statute that doesn't give us a legal basis to, to argue
15 about some of these costs. We do think today that we
16 have a legal basis to make an argument related to this
17 \$54 million, and we think it's a good argument and that
18 the OPC position should be, should be adopted.

19 I made an analogy a couple of years ago --
20 Commissioner Balbis, you had asked that question about
21 the uprate -- and I used a car analogy and said, You all
22 ought to not approve the uprate dollars because it's
23 analogous to putting new cars [sic] on a car that we
24 don't know whether the engine is broken on the car or
25 not. And to put money in the uprate on the car doesn't

1 make sense until you figure out whether the engine will
2 run or not. That argument was accepted and uprate
3 dollars were approved. But I want to try again with a
4 car analogy today as it relates to this \$54 million, and
5 bring a little personal information into it. I have
6 three kids who are kind of at a driving age, and I hook
7 at it like this. One of the kids says, Dad, I got an
8 opportunity to get this car for a thousand dollars. Can
9 I get a thousand dollars to go buy this car? Can, will
10 you do that? And we work out something on repayment or
11 something. So anyway, I say, Okay. We'll do that, and
12 I provide my kid a thousand dollars for the car. Well,
13 some time goes by. I'm like, well, where's the car?
14 Well, we're having a little bit of a disagreement. And
15 I keep asking that question and there's no car. You
16 know, eventually I find out there's a dispute and it's
17 going to take a long time to get resolved, and I, as a
18 parent, would say, well, our deal, you know, was I was
19 going to provide that to you for a car. There's no car.
20 I ought to get that thousand dollars back. And I think
21 that has an analogy with respect to this \$54 million
22 that ratepayers have paid and that Duke has contracted
23 with Westinghouse and said we wanted a piece of
24 equipment for 54 million and Westinghouse never produced
25 the piece of equipment. So in an analogous situation,

1 the ratepayers who paid for it should get, you know, a
2 credit back at this point in time. And we do think you
3 have the flexibility to do that. You know, how all this
4 litigation works out remains to be seen. But I think
5 within your powers and your discretion is the ability
6 to, as a parent I think might do, and say, Okay. You
7 know, I said I'd give you the money for the car. You
8 never followed through and got the car. I want the
9 money back. That you should credit customers with that,
10 with that money back.

11 And anyway this is a point that you'll hear
12 some more about today as you go forward, but I do think
13 that it's within your discretion. And, you know,
14 there's a lot of monies that have been paid by
15 ratepayers throughout the years. The \$54 million, I
16 mean, it's a significant amount of money, but I guess it
17 will remain to be seen if that's such an issue that,
18 that Duke would, would think it's a show stopper if you
19 made that order. I mean, I think it might be sending a
20 good signal that there's a little bit of relief coming
21 to the, to the ratepayers if, you know, if you act like,
22 like the parent who asks the kid, please give me the
23 thousand dollars back for the car that you never, never.
24 So thank you.

25 **COMMISSIONER BRISÉ:** Thank you. You had

1 thirty seconds to spare.

2 **MR. MOYLE:** Good deal.

3 **COMMISSIONER BRISÉ:** Mr. Wright.

4 **MR. WRIGHT:** Thank you, Commissioner Brisé.
5 Good afternoon, Commissioners. Schef Wright on behalf
6 of the Florida Retail Federation.

7 And at the outset, I'd like to note for the
8 record that, like the Industrial Power Users Group, the
9 Florida Retail Federation and I personally have
10 consistently supported nuclear power where it can be
11 developed at reasonable and certain costs. We like
12 nuclear power; we believe that the fuel diversity that
13 it would provide is, will have tremendous value in the
14 long-run, but we need reasonable and certain costs.

15 We agree with the Public Counsel, PCS
16 Phosphate, and the Industrial Power Users that the
17 Commission should reward a credit of \$54 million for the
18 benefit of customers in 2014. You have jurisdiction.
19 You approved the money in the first place. This was
20 rate money. We paid it and we paid it for work that was
21 never done and that never will be done. The right
22 remedy is for this Commission to order Duke to record
23 the credit and make the customers whole for this money
24 that was paid for stuff that was never done. This will
25 send an important message to Westinghouse and to Duke

1 that you, the Florida Public Service Commission, will
2 not tolerate any further costs being imposed on
3 customers for work that isn't done.

4 In closing, you should approve the credit for
5 the benefit of the Retail Federation's members and every
6 customer of Duke Energy Florida. Thank you.

7 **COMMISSIONER BRISÉ:** Thank you, Mr. Wright.
8 That's pretty good. You had almost three and a half
9 minutes left. Good deal.

10 All right. So now we're going to move into
11 witnesses. And so before we do that, if we have
12 witnesses present, if you would rise with me as I
13 administer the oath. Please raise your right hand.

14 (Witnesses collectively sworn.)

15 Just before we get into the witnesses, just a
16 few instructions. Witnesses will have about three
17 minutes to provide their summaries. I think that
18 information was provided to you before and that's part
19 of the Prehearing Order. The other thing is I want to
20 make sure that every party has the time that they need
21 in order to, to question and cross-examine the witness,
22 but we also need your participation in that. So we ask
23 that you do not conduct discovery during this process
24 and that, that we're not duplicitous or repetitious, and
25 friendly cross is not allowed either. All right. So we

1 just want to keep that in mind. We want you to be able
2 to do your job, but we want you to be respectful of the
3 process.

4 Okay? So with that, Duke, feel free to call
5 your first witness.

6 **MS. GAMBA:** Thank you, Commissioner. Duke
7 Energy calls Thomas Geoff Foster.

8 **COMMISSIONER BRISÉ:** Okay.
9 Whereupon,

10 **THOMAS GEOFFREY FOSTER**

11 was called as a witness on behalf of Duke Energy Florida
12 and, having first been duly sworn, testified as follows:

13 **BY MS. GAMBA:**

14 **Q** Good afternoon, Mr. Foster. Would you please
15 introduce yourself to the Commission and provide your
16 business address?

17 **A** Yes. My name is Thomas Geoffrey Foster.
18 My business address is 299 First Avenue North,
19 St. Petersburg, Florida 33701.

20 **Q** And, Mr. Foster. Have you already been sworn
21 in as a witness?

22 **A** Yes.

23 **Q** Who do you work for and what is your position?

24 **A** I work -- I work for Duke Energy, and I'm the
25 Director of Rates and Regulatory Planning.

1 Q Have you prefiled direct testimony on
2 March 3rd, 2014, and May 1st, 2014, in this proceeding?

3 A Yes.

4 Q Do you have a copy of both of your prefiled
5 direct testimonies with you?

6 A Yes.

7 Q Do you have any changes to make to this
8 prefiled testimony?

9 A No.

10 Q If I asked you the same questions asked in
11 your prefiled testimony today, would you provide the
12 same answers that are in your prefiled testimony?

13 A Yes.

14 Q We, we request that the prefiled direct
15 testimony of Mr. Foster dated March 3rd, 2014, and
16 May 1, 2014, be moved in evidence as if it were read in
17 the record today.

18 **COMMISSIONER BRISÉ:** Okay. We will move
19 Mr. Thomas G. Foster's prefiled testimony into the
20 record as though read.

IN RE: NUCLEAR COST RECOVERY CLAUSE
BY DUKE ENERGY FLORIDA, INC.
FPSC DOCKET NO. 140009-EI
DIRECT TESTIMONY OF THOMAS G. FOSTER

1 **I. INTRODUCTION AND QUALIFICATIONS**

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

3 A. My name is Thomas G. Foster. My business address is 299 First Avenue North, St.
4 Petersburg, FL 33701.

5
6 **Q. By whom are you employed and in what capacity?**

7 A. I am employed by Duke Energy Business Services, LLC, as Director, Rates and
8 Regulatory Strategy.

9
10 **Q. What are your responsibilities in that position?**

11 A. I am responsible for regulatory planning and cost recovery for Duke Energy
12 Florida, Inc. (“DEF”). These responsibilities include regulatory financial reports
13 and analysis of state, federal, and local regulations and their impact on DEF. In
14 this capacity, I am also responsible for the Levy Nuclear Project (“LNP”) and
15 the Crystal River Unit 3 (“CR3”) Extended Power Uprate (“EPU”) Project
16 (“CR3 Uprate”) Cost Recovery filings, made as part of this docket, in
17 accordance with Rule 25-6.0423, Florida Administrative Code (F.A.C.).

1 **Q. Please describe your educational background and professional experience.**

2 A. I joined Duke Energy on October 31, 2005 as a Senior Financial Analyst in the
3 Regulatory group. In that capacity I supported the preparation of testimony and
4 exhibits associated with various Dockets. In late 2008, I was promoted to
5 Supervisor Regulatory Planning. In 2012, following the merger with Duke Energy, I
6 was promoted to my current position. Prior to working at Duke I was the Supervisor
7 in the Fixed Asset group at Eckerd Drug. In this role I was responsible for ensuring
8 proper accounting for all fixed assets as well as various other accounting
9 responsibilities. I have 6 years of experience related to the operation and
10 maintenance of power plants obtained while serving in the United States Navy as a
11 Nuclear Operator. I received a Bachelors of Science degree in Nuclear Engineering
12 Technology from Thomas Edison State College. I received a Masters of Business
13 Administration with a focus on finance from the University of South Florida and I
14 am a Certified Public Accountant in the State of Florida.

15
16 **Q. Have you previously filed testimony before this Commission in connection with**
17 **DEF's Nuclear Cost Recovery?**

18 A. Yes.

19
20 **II. PURPOSE OF TESTIMONY.**

21 **Q. What is the purpose of your testimony?**

22 A. The purpose of my testimony is to present for Florida Public Service Commission
23 ("FPSC" or the "Commission") review and approval, the actual costs associated with
24 DEF's LNP and CR3 Uprate activities for the period January 2013 through

1 December 2013. Pursuant to Rule 25-6.0423, F.A.C., DEF is presenting testimony
2 and exhibits for the Commission's determination of prudence for actual expenditures
3 and associated carrying costs.

4 In addition, based on the agreement by the parties to the 2013 NCRC docket
5 and DEF's Motion to Defer, as approved by the Commission vote on August 5,
6 2013 and restated in Order No. PSC-13-0493-FOF-EI on October 18, 2013, a
7 review of 2012 LNP and EPU project costs and policies and procedures was
8 deferred to this docket. Accordingly, I will also present the LNP and EPU project
9 2012 costs and 2012 accounting and cost oversight policies and procedures
10 pursuant to the nuclear cost recovery statute and rule.

11
12 **Q. Are you sponsoring any exhibits in support of your testimony on LNP and CR3**
13 **Uprate costs?**

14 A. Yes. I am sponsoring sections of the following exhibits, which were prepared under
15 my supervision:

16 2012 Costs:

- 17 • Exhibit No. ____ (TGF-1), contains Direct Testimony and Exhibits of Thomas
18 G. Foster in Support of Actual Costs on behalf of Progress Energy Florida, Inc.
19 in Docket No. 130009-EI.

20 2013 Costs:

- 21 • Exhibit No. __ (TGF-2), reflects the actual costs associated with the LNP and
22 consists of: 2013 True-Up Summary, 2013 Detail Schedule and Appendices A
23 through E, which reflect DEF's retail revenue requirements for the LNP from
24 January 2013 through December 2013; however, I will only be sponsoring the

1 2013 True-Up Summary, 2013 Detail Schedule, and Appendices A, B and C.
2 Christopher Fallon will be co-sponsoring portions of the 2013 Detail Schedule
3 and sponsoring Appendices D and E.

- 4 • Exhibit No. ____ (TGF-3), reflects the actual costs associated with the CR3
5 Uprate project and consists of: 2013 True-Up Summary, 2013 Detail Schedule
6 and Appendices A through E, which reflect DEF's retail revenue requirements
7 for the CR3 Uprate project from January 2013 through December 2013;
8 however, I will only be sponsoring the 2013 True-Up Summary, 2013 Detail
9 Schedule, and Appendices A, B, and C. Michael Delowery will be co-
10 sponsoring the 2013 Detail Schedule and sponsoring Appendices D and E.

11 The 2013 Detail Schedules for the LNP and the CR3 Uprate project contain
12 the same calculations provided in the NFR Schedules prior to project cancellation in
13 a more concise manner.

14 These exhibits are true and accurate.

15
16 **Q. What are the 2013 Detail Schedules and the Appendices?**

17 A. A description of the 2013 Detail Schedules and the Appendices follows:

- 18 • Schedule 2013 Summary reflects the actual 2013 year-end revenue requirements
19 by Cost Category for the period, and final true-up amount for the period.
- 20 • Schedule 2013 Detail reflects the actual calculations for the true-up of total retail
21 revenue requirements for the period.
- 22 • Appendix A (CR3 Uprate) reflects beginning balance explanations and various
23 Uprate in-service project revenue requirements.
- 24 • Appendix A (Levy) reflects beginning balance explanations.

- 1 • Appendix B reflects Capacity Cost Recovery Clause (“CCRC”) recoverable
- 2 Operations and Maintenance (“O&M”) expenditures and variance explanations
- 3 for the period.
- 4 • Appendix C provides support for the appropriate rate of return consistent with
- 5 the provisions of Rule 25-6.0423, F.A.C.
- 6 • Appendix D describes Major Task Categories for capital expenditures and
- 7 variance explanations for the period.
- 8 • Appendix E reflects contracts and details executed in excess of \$1.0 million.

9

10 **Q. Do you have any changes to your direct testimony regarding 2012 LNP and**

11 **CR3 Uprate costs and accounting cost oversight controls that you included as**

12 **an exhibit to your current testimony?**

13 A. Yes, I have one change. Progress Energy Florida, Inc. is now Duke Energy Florida,

14 Inc. as a result of the merger between Duke Energy and Progress Energy, Inc.

15 Otherwise, the information in my March 2013 direct testimony attached as Exhibit

16 No. ___ (TGF-1) to my current testimony remains true and accurate.

17

18 **Q. What is the source of the data that you will present in your testimony and**

19 **exhibits in this proceeding?**

20 A. The actual data is taken from the books and records of DEF. The books and records

21 are kept in the regular course of our business in accordance with generally accepted

22 accounting principles and practices, provisions of the Uniform System of Accounts

23 as prescribed by the Federal Energy Regulatory Commission (“FERC”), and any

24 accounting rules and orders established by this Commission.

1 **Q. What is the final true-up amount for the LNP for which DEF is requesting**
2 **recovery for the period January 2013 through December 2013?**

3 A. DEF is requesting approval of a total over-recovery amount of (\$9,167,213) for the
4 calendar period ending December 2013, this amount can be seen on Line 5 of the
5 2013 Summary Schedule of Exhibit No. ____ (TGF-2). Line 3 of the 2013 Summary
6 represents the preconstruction additions, carrying cost on the preconstruction cost
7 balance and the carrying costs on construction cost balance (including prior period
8 (over)/under balances), and CCRC recoverable O&M costs associated with the LNP,
9 and was calculated in accordance with Rule 25-6.0423, F.A.C.

10
11 **Q. What is the final true-up amount for the CR3 Uprate project for which DEF is**
12 **requesting recovery for the period January 2013 through December 2013?**

13 A. DEF is requesting approval of a total over-recovery amount of (\$3,315,350) for the
14 calendar period of January 2013 through December 2013, this amount can be seen
15 on Line 6 of the 2013 Summary of Exhibit No. ____ (TGF-3). Line 4 of the 2013
16 Summary represents the carrying costs on the unrecovered balance including prior
17 period (over/under) balances, CCRC recoverable O&M costs, and was calculated in
18 accordance with Rule 25-6.0423, F.A.C..

19
20 **Q. What is the carrying cost rate used in the 2013 Detail Schedule?**

21 A. Prior to the decisions to retire CR3 and cancel the LNP, the carrying cost rate used in
22 the 2013 Detail Schedule was 8.848 percent. On a pre-tax basis, the rate is 13.13
23 percent. This rate represents the approved rate as of June 12, 2007, and is the
24 appropriate rate to use consistent with Rule 25-6.0423 F.A.C. The rate was

1 approved by the Commission in Order No. PSC-05-0945-S-EI in Docket No.
2 050078-EI. The annual rate was adjusted to a monthly rate consistent with the
3 Allowance for Funds Used During Construction (“AFUDC”) rule, Rule 25-6.0141,
4 Item (3), F.A.C.

5 Beginning in February 2013 for the CR3 Uprate and July 2013 for the LNP,
6 DEF is using the rate specified in Rule 25-6.0423(7)(b), F.A.C. The carrying cost
7 rate used for this time period in the 2013 Detail Schedule was 7.23 percent. On a
8 pre-tax basis, the rate is 10.29 percent. This annual rate was also adjusted to a
9 monthly rate consistent with the AFUDC rule, Rule 25-6.0141, Item (3), F.A.C.
10 Support for the components of this rate is shown in Appendix C of Exhibit
11 Nos.__(TGF-2) and (TGF-3).

12
13 **III. CAPITAL COSTS INCURRED IN 2013 FOR THE LEVY NUCLEAR**
14 **PROJECT.**

15 **Q. What are the total costs DEF incurred for the LNP during the period January**
16 **2013 through December 2013?**

17 A. Total preconstruction capital expenditures, excluding carrying costs, were [REDACTED]
18 [REDACTED], as shown on the 2013 Detail Schedule, Line 1d and 3e. Total construction
19 capital expenditures, excluding carrying costs, were [REDACTED], as shown on the
20 2013 Detail Schedule, Line 16e and 18f.

21
22 **Q. How did actual Preconstruction Generation capital expenditures for January**
23 **2013 through December 2013 compare with DEF’s actual/estimated costs for**
24 **2013?**

1 A. Appendix D (Page 2 of 2), Line 6 shows that total preconstruction Generation
 2 project costs were [REDACTED], or [REDACTED] lower than estimated. By cost
 3 category, major cost variances between DEF's projected and actual 2013
 4 preconstruction LNP Generation project costs are as follows:

5
 6 **License Application:** Capital expenditures for License Application activities were
 7 [REDACTED] or [REDACTED] lower than estimated, as explained in the testimony of
 8 Christopher Fallon.

9
 10 **Engineering & Design:** Capital expenditures for Engineering & Design activities
 11 were [REDACTED] or [REDACTED] lower than estimated, as explained in the testimony
 12 of Christopher Fallon.

13
 14 **Q. Did the Company incur Preconstruction Transmission capital expenditures for**
 15 **January 2013 through December 2013?**

16 A. No. As shown on Appendix D (Page 2 of 2), Line 11 the total preconstruction
 17 Transmission project costs were \$0 in 2013. No costs were projected in the prior-
 18 year Actual/Estimated filing, so there is no true-up to report.

19
 20 **Q. How did actual Construction Generation capital expenditures for January 2013**
 21 **through December 2013 compare with DEF's actual/estimated costs for 2013?**

22 A. Appendix D (Page 2 of 2), Line 19 shows that total construction Generation project
 23 costs were [REDACTED], or [REDACTED] higher than estimated. By cost category,

1 major cost variances between DEF's actual/estimated and actual 2013 construction
2 LNP Generation project costs are as follows:

3
4 **Power Block Engineering:** Capital expenditures for Power Block Engineering
5 activities were [REDACTED] or [REDACTED] lower than estimated, as explained in
6 the testimony of Christopher Fallon.

7
8 **Disposition of LLE:** Capital expenditures for Long Lead Equipment ("LLE")
9 Disposition activities were [REDACTED]. There were no LLE Disposition costs
10 estimated in 2013 because DEF elected not to complete the LNP after the LNP
11 Actual/Estimated 2013 costs were prepared and filed with the Commission. As a
12 result, the LLE Disposition costs in 2013 represent net new costs that result in a
13 variance in the Power Block Engineering actual 2013 costs from the
14 Actual/Estimated 2013 costs. As explained in the testimony of Christopher Fallon,
15 this variance is attributable to disposition of the Mangiarotti LLE equipment.

16
17 **Q. How did actual Construction Transmission capital expenditures for January**
18 **2013 through December 2013 compare with DEF's actual/estimated costs for**
19 **2013?**

20 A. Appendix D (Page 2 of 2), Line 26 shows that total construction Transmission
21 project costs were [REDACTED] or [REDACTED] lower than estimated. Consequently,
22 in total there were no major (more than \$1.0 million) variances between the
23 actual/estimated costs and the actual costs incurred for 2013.

1 **Q. What was the source of the separation factors used in 2013 Detail Schedule?**

2 A. The jurisdictional separation factors are consistent with Exhibit 1 of the Stipulation
3 and Settlement Agreement (“Settlement Agreement”) approved by the Commission
4 in Order No. PSC-12-0104-FOF-EI in Docket No. 120022-EI, which were
5 reaffirmed in Order No. PSC-13-0598-FOF-EI in Docket No 130208-EI.

6
7 **IV. O&M COSTS INCURRED IN 2013 FOR THE LEVY NUCLEAR PROJECT.**

8 **Q. How did actual O&M expenditures for January 2013 through December 2013**
9 **compare with DEF’s actual/estimated costs for 2013?**

10 A. Appendix B, Line 15 shows that total O&M costs were \$0.5 million or \$85,734
11 lower than estimated. There were no major variances with respect to O&M costs.

12
13 **V. CAPITAL COSTS INCURRED IN 2013 FOR CR3 UPRATE PROJECT.**

14 **Q. What are the total Construction costs incurred for the CR3 Uprate project for**
15 **the period January 2013 through December 2013?**

16 A. 2013 Detail Schedule Exhibit No__(TGF-3) Line 1f shows that total Construction
17 capital expenditures gross of joint owner billing and excluding carrying costs were
18 \$11.2 million.

19
20 **Q. How did actual capital expenditures for January 2013 through December 2013**
21 **compare to DEF’s actual/estimated costs for 2013?**

22 A. Appendix D (Page 2 of 2), Line 10 shows that total project costs were \$11.2 million
23 or \$3.0 million lower than estimated. By cost category, major cost variances
24 between DEF’s actual/estimated and actual 2013 Construction costs are as follows:

1 **Power Block Engineering & Procurement:** Capital expenditures for Power Block
2 Engineering & Procurement activities were \$9.8 million or \$3.3 million lower than
3 estimated, as explained in the testimony of Michael Delowery.
4

5 **Q. Has DEF billed the CR3 joint owners for their portion of the costs relative to**
6 **the CR3 Uprate and identified them in this filing?**

7 A. Yes. Construction expenditures shown on the 2013 Detail Schedule, Line 1f are
8 gross of Joint Owner Billings, but construction expenditures have been adjusted as
9 reflected on 2013 Detail Schedule, Line 2b to reflect billings to Joint Owners related
10 to CR3 Uprate expenditures. Due to this, no carrying cost associated with the Joint
11 Owner portion of the Uprate are included on 2013 Detail Schedule. Total Joint
12 Owner billings were \$1.2 million for 2013, as seen on Line 2b.
13

14 **Q. What was the source of the separation factors used in the 2013 Detail Schedule?**

15 A. The jurisdictional separation factors are consistent with Exhibit 1 of the Stipulation
16 and Settlement Agreement (“Settlement Agreement”) approved by the Commission
17 in Order No. PSC-12-0104-FOF-EI in Docket No. 120022-EI, which were
18 reaffirmed in Order No. PSC-13-0598-FOF-EI in Docket No 130208-EI.
19

20 **VI. O&M COSTS INCURRED IN 2013 FOR THE CR3 UPRATE PROJECT.**

21 **Q. How did actual O&M expenditures for January 2013 through December 2013**
22 **compare with DEF’s actual/estimated costs for 2013?**

23 A. Appendix B, Line 15 shows that total O&M costs were \$267,649 or \$261,735 lower
24 than estimated. There were no major variances with respect to O&M costs.

1 **VII. 2013 PROJECT ACCOUNTING AND COST CONTROL OVERSIGHT.**

2 **Q. Have the project accounting and cost oversight controls DEF used for the LNP**
3 **and CR3 Uprate projects in 2013 substantially changed from the controls used**
4 **prior to 2013?**

5 A. No, they have not. The project accounting and cost oversight controls that DEF
6 utilizes to ensure the proper accounting treatment for the LNP and CR3 Uprate
7 project in 2013 have not substantively changed since 2009. In addition, these
8 controls have been reviewed in annual financial audits by Commission Staff and
9 were found to be reasonable and prudent by the Commission in Docket Nos.
10 090009-EI, 100009-EI, 110009-EI, and 120009-EI.

11
12 **Q. Can you describe how the merger between Duke Energy and Progress Energy**
13 **impacted the project accounting and cost oversight controls?**

14 A. Yes, I can. During the first six months of 2012, prior to the July 2012 merger
15 between Duke Energy and Progress Energy, the project accounting and cost
16 oversight controls were exactly the same as those previously reviewed. This
17 included continued project governance under the Major Projects - Integrated Project
18 Plan (“IPP”) Approval and Authorization policy for capital project initial
19 authorization.

20 Following the merger, the IPP procedure was superseded by the Duke
21 Energy Approval of Business Transaction (“ABT”) process, which is a similar Duke
22 Energy senior management project oversight process. This governance procedure
23 change in the end of 2012 however did not affect DEF’s 2013 accounting and cost

1 oversight controls for the LNP and CR3 Uprate projects. More specifically, DEF's
2 day-to-day project accounting and cost oversight controls remained the same.

3
4 **Q. Can you please describe the project accounting and cost oversight controls**
5 **process DEF has utilized for the LNP and CR3 Uprate Project?**

6 A. Yes. Starting at the initial approval stage, DEF continues to determine whether
7 projects are capital based on the Company's Capitalization Policy and then projects
8 are documented in PowerPlant.

9 The justifications and other supporting documentation are reviewed and
10 approved by the Financial Services Manager, or delegate, based on input received
11 from the Financial Services or Project Management Analyst to ensure that the
12 project is properly classified as capital, eligibility for AFUDC is correct, and that
13 disposals/retirements are identified. Supporting documentation is maintained
14 within Financial Services or with the Project Management Analyst. Financial
15 Services personnel, and selected other personnel (including project management
16 analysts), access this documentation to set-up new projects in Oracle or make
17 changes to existing project estimates in PowerPlant. The Oracle and PowerPlant
18 system administrators review the transfer and termination information provided by
19 Human Resources each pay period and take appropriate action regarding access to
20 the systems as outlined in the Critical Financial Application Access Review
21 Process Policy.

22 An analyst in Asset Accounting must review and approve each project set
23 up before it can receive charges. All future status changes are made directly in

1 PowerPlant by an Asset Accounting Analyst based on information received by the
2 Financial Services Analyst or the Project Management Analyst.

3 Finally, to ensure that all new projects have been reviewed each month,
4 Financial Services Management reviews a report of all projects set up during the
5 month prior to month-end close.

6 The next part of the Company's project controls is project monitoring.
7 First, there are monthly reviews of project charges by responsible operations
8 managers and Financial Services Management for the organization. Specifically,
9 these managers review various monthly cost and variance analysis reports for the
10 capital budget. Variances from total budget or projections are reviewed,
11 discrepancies are identified, and corrections made as needed. Journal entries to
12 projects are prepared by an employee with the assigned security and are approved in
13 accordance with the Journal Entry Policy. Accruals are made in accordance with
14 Duke Energy policy.

15 The Company uses Cost Management Reports produced from accounting
16 systems to complete these monthly reviews. Financial Services may produce
17 various levels of reports driven by various levels of management, but all reporting is
18 tied back to the Cost Management Reports, which are tied back to Legal Entity
19 Financial Statements.

20 Finally, the Asset Accounting unit performs a quarterly review of sample
21 project transactions to ensure charges are properly classified as capital. Financial
22 Services is responsible for answering questions and making necessary corrections as
23 they arise to ensure compliance. These accounting and cost oversight processes
24 continued to be utilized in 2013 for the CR3 Uprate and LNP.

1 **Q. Are there any other accounting and costs oversight controls that pertain to the**
2 **LNP and the CR3 Uprate Project?**

3 A. Yes, the Company also has Disbursement Services Controls and Regulatory
4 Accounting Controls.

5
6 **Q. Can you please describe the Company's Disbursement Services Controls?**

7 A. Yes. First, a requisition is created in the Passport Contracts module for the purchase
8 of services. The requisition is reviewed by the appropriate Contract Specialist in
9 Corporate Services, or field personnel in the various Business Units, to ensure
10 sufficient data has been provided to process the contract requisition. The Contract
11 Specialist prepares the appropriate contract document from pre-approved contract
12 templates in accordance with the requirements stated on the contract requisition.

13 The contract requisition then goes through the bidding or finalization
14 process. Once the contract is ready to be executed, it is approved online by the
15 appropriate levels of the approval matrix pursuant to the Approval Level Policy and
16 a contract is created.

17 Contract invoices are received by the Account Payable Department. The
18 invoices are validated by the project manager and payment authorizations approving
19 payment of the contract invoices are entered and approved in the Contracts module
20 of the Passport system.

21
22 **Q. Can you please describe the Company's Regulatory Accounting Controls?**

23 A. Yes. The journal entries for deferral calculations, along with the summary sheets
24 and the related support, are reviewed in detail and approved by the Lead Accounting

1 Analyst and/or Director of Florida Accounting, per the Duke Energy Journal Entry
2 policy. The detail review and approval by the Director of Florida Accounting ensure
3 that recoverable expenses are identified, accurate, processed, and accounted for in
4 the appropriate accounting period. In addition, transactions are reviewed to ensure
5 that they qualify for recovery through the Nuclear Cost Recovery Rule and are
6 properly categorized as O&M, Site selection, Preconstruction, or Construction
7 expenditures.

8 Analysis is performed monthly to compare actuals to projected (budgeted)
9 expenses and revenues for reasonableness. If any errors are identified, they are
10 corrected in the following month.

11 For balance sheet accounts established with Regulated Utilities – Florida
12 Accounting as the responsible party, a Florida Accounting member will reconcile the
13 account on a monthly or quarterly basis, as required by Duke Energy policy. This
14 reconciliation will be reviewed by the Lead Accounting Analyst or Director of
15 Florida Accounting to ensure that the balance in the account is properly stated and
16 supported and that the reconciliations are performed regularly and exceptions are
17 resolved on a timely basis.

18 The review and approval will ensure that regulatory assets or liabilities are
19 recorded in the financial statements at the appropriate amounts and in the appropriate
20 accounting period.

21

22

23

1 **Q. How does the Company verify that the accounting and costs oversight controls**
2 **you identified are effective?**

3 A. The Company's assessment of the effectiveness of our controls is based on the
4 framework established by the Committee of Sponsoring Organizations of the
5 Treadway Commission ("COSO"). This framework involves both internal and
6 external audits of DEF accounting and cost oversight controls.

7 With respect to internal audits, all tests of controls were conducted by the
8 Corporate Audit Services Department, and conclusions on the results were reviewed
9 and approved by both the Steering Committee and Compliance Team chairpersons.
10 Based on these internal audits, DEF's management has determined that the processes
11 and controls to identify and manage risks, key project milestones, and regulatory
12 reporting requirements have been sufficiently designed.

13 With respect to external audits, Deloitte and Touche, DEF's external
14 auditors, determined that the Company maintained effective internal control over
15 financial reporting during 2013.

16
17 **Q. Did the cancellation of the Levy and CR3 Uprate projects change the**
18 **Company's accounting and cost oversight control processes?**

19 A. No. DEF continued to follow the same policies and processes as I described above
20 to ensure prudent accounting and cost oversight for the projects as they are being
21 closed out.

22

23

1 **Q. Are the Company's project accounting and cost oversight controls reasonable**
2 **and prudent?**

3 A. Yes, they are. DEF's project accounting and cost oversight controls are consistent
4 with best practices for capital project cost oversight and accounting controls in the
5 industry and have been and continue to be vetted by internal and external auditors.
6 We believe, therefore, that the accounting and cost oversight controls continue to be
7 reasonable and prudent.

8
9 **Q. What process have you implemented in 2013 to ensure that future costs**
10 **related to the LNP COL are not included in the NCRC as of January 1, 2014?**

11 A. As discussed by Mr. Fallon, on a project team level DEF has always segregated
12 project costs incurred by specific project code and this process will not change for
13 2014. The project team continues to charge COL-related labor, NRC fees, vendor
14 invoices and all other COL-related cost items to the applicable COL project codes.
15 Thereafter, the Regulatory Accounting and Regulatory Strategy groups, will ensure
16 that the COL-related project codes and associated costs incurred in 2014 and beyond
17 are not included in the Company's NCRC Schedules, and thus not presented for
18 nuclear cost recovery. We will however continue to track the COL-related costs for
19 accounting purposes consistent with the 2013 Settlement Agreement.

20
21 **Q. Does this conclude your testimony?**

22 A. Yes, it does.

IN RE: NUCLEAR COST RECOVERY CLAUSE

BY DUKE ENERGY FLORIDA, INC.

FPSC DOCKET NO. 140009-EI

**DIRECT TESTIMONY OF THOMAS G. FOSTER
IN SUPPORT OF LEVY AND CR3 UPRATE ESTIMATED/ACTUAL AND
PROJECTION COSTS**

1 **I. INTRODUCTION AND QUALIFICATIONS.**

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

3 A. My name is Thomas G. Foster. My business address is 299 First Avenue
4 North, St. Petersburg, FL 33701.

5
6 **Q. By whom are you employed and in what capacity?**

7 A. I am employed by Duke Energy Business Services, LLC as Director, Rates
8 and Regulatory Planning.

9
10 **Q. What are your responsibilities in that position?**

11 A. I am responsible for regulatory planning and cost recovery for Duke
12 Energy Florida, Inc. (“DEF” or the “Company”). These responsibilities
13 include: regulatory financial reports; and analysis of state, federal, and
14 local regulations and their impact on DEF. In this capacity, I am also
15 responsible for the Levy Nuclear Project (“LNP”) and the Crystal River
16 Unit 3 (“CR3”) Extended Power Uprate (“EPU”) Project (“CR3 Uprate”)
17 Cost Recovery filings, made as part of this docket, in accordance with
18 Rule 25-6.0423, Florida Administrative Code (F.A.C.).

1 **Q. Please describe your educational background and professional**
2 **experience.**

3 A. I joined Duke Energy on October 31, 2005, as a Senior Financial Analyst in
4 the Regulatory group. In that capacity I supported the preparation of
5 testimony and exhibits associated with various Dockets. In late 2008, I was
6 promoted to Supervisor Regulatory Planning. In 2012, following the merger
7 with Duke Energy, I was promoted to my current position. Prior to working
8 at Duke I was the Supervisor in the Fixed Asset group at Eckerd Drug. In
9 this role I was responsible for ensuring proper accounting for all fixed
10 assets as well as various other accounting responsibilities. I have 6 years
11 of experience related to the operation and maintenance of power plants
12 obtained while serving in the United States Navy as a nuclear operator. I
13 received a Bachelors of Science degree in Nuclear Engineering Technology
14 from Thomas Edison State College. I received a Masters of Business
15 Administration with a focus on finance from the University of South Florida
16 and I am a Certified Public Accountant in the State of Florida.

17
18 **II. PURPOSE OF TESTIMONY.**

19 **Q. What is the purpose of your testimony?**

20 A. The purpose of my testimony is to present, for Florida Public Service
21 Commission ("FPSC" or the "Commission") review, DEF's expected 2014
22 and 2015 costs associated with the Levy and CR3 Uprate projects
23 consistent with Rule 25-6.0423(7), F.A.C., in support of setting 2015 rates
24 in the Capacity Cost Recovery Clause ("CCRC"). For Levy, the rate will be

1 consistent with the 2013 Revised and Restated Stipulation and Settlement
 2 Agreement approved by the Commission in Order No. PSC-13-0598-FOF-
 3 EI (the “2013 Settlement Agreement”). The schedules attached to my
 4 testimony show how the revenues collected pursuant to the approved rate
 5 will be applied to costs. As discussed further in the testimony of Witnesses
 6 Christopher Fallon and Michael Delowery, at this time there are certain
 7 Levy and EPU costs that are not known or knowable and DEF has not
 8 included these in our estimates.

9
 10 **Q. Are you sponsoring any exhibits in support of your testimony?**

11 **A.** Yes. I am sponsoring sections of the following exhibits, which were
 12 prepared under my supervision:

- 13 • Exhibit No. ___ (TGF-4) reflects the actual and estimated costs
 14 associated with the LNP and consists of: 2015 Revenue
 15 Requirement Summary, 2014 Estimated/Actual Detail Schedule,
 16 2015 Projection Detail Schedule, Estimated Rate Impact Schedule,
 17 and Appendices A through F, which reflect DEF’s retail revenue
 18 requirements for the LNP from January 2014 through December
 19 2015. Witness Fallon will be co-sponsoring portions of the 2014
 20 Estimated/Actual Detail Schedule Lines 1 (a – e) and Lines 3 (a – e)
 21 2015 Projection Detail Schedule Lines 1 (a – e) and Lines 3 (a – e)
 22 and sponsoring Appendices D and E.
- 23 • Exhibit No. ___ (TGF-5) reflects the actual and estimated costs
 24 associated with the CR3 Uprate project and consists of: 2015

1 Revenue Requirement Summary, 2014 Estimated/Actual Detail
2 Schedule, 2015 Projection Detail Schedule, Estimated Rate Impact
3 Schedule, and Appendices A through F, which reflect DEF's retail
4 revenue requirements for the project from January 2014 through
5 December 2015. Michael Delowery will be co-sponsoring portions of
6 Schedule 2014 Detail Lines 1 (a – d) and Schedule 2015 Detail Lines
7 1 (a - d) and sponsoring Appendices D and E.

8 The 2014 and 2015 Detail Schedules for the Levy Nuclear project
9 and the CR3 Uprate project contain the same calculations provided in the
10 Nuclear Filing Requirement ("NFR") Schedules prior to project cancellation
11 in a more concise manner.

12 These exhibits are true and accurate.

13
14 **Q. What are the 2014-2015 Detail Schedules and the Appendices?**

- 15 A.
- 16 • Schedule 2015 Summary reflects the projection of total retail revenue
17 requirements for the period as well as true-ups for prior periods
 - 18 • Schedule 2014 Detail reflects the actual/estimated calculations for the
19 true-up of total retail revenue requirements for the period.
 - 20 • Schedule 2015 Detail reflects the projection calculations for the true-up
21 of total retail revenue requirements for the period.
 - 22 • Schedule 2015 Estimated Rate Impact reflects the estimated Capacity
23 Cost Recovery Factors for 2015.
 - 24 • Appendix A (CR3 Uprate) reflects beginning balance explanations and
support for the 2015 Regulatory Asset Amortization Amount.

- 1 • Appendix A (Levy) reflects beginning balance explanations and support
- 2 for the 2015 Regulatory Asset Amortization Amount.
- 3 • Appendix B reflects Other Wind Down/Exit cost variance explanations for
- 4 the period.
- 5 • Appendix C provides support for the appropriate rate of return consistent
- 6 with the provisions of Rule 25-6.0423(7), F.A.C.
- 7 • Appendix D describes Major Task Categories for expenditures and
- 8 variance explanations for the period.
- 9 • Appendix E reflects contracts and details executed in excess of \$1.0
- 10 million.
- 11 • Appendix F (CR3 Uprate) reflects a summary of the 2013-2019 Uprate
- 12 Amortization Schedule for the Uncollected Investment Balance.
- 13 • Appendix F (Levy) reflects a summary of the 2010-2014 Rate
- 14 Management Plan Schedule for the Regulatory Asset created in 2010.

15

16 **Q. Are NFR Schedules P-1 through P-8, their Appendices, and the NFR**

17 **TOR Schedules necessary for either the CR3 Uprate project or the**

18 **Levy Nuclear Project?**

19 **A.** No. These NFR Schedules were developed for active nuclear power plant

20 projects. The CR3 Uprate project and Levy Nuclear Project were cancelled

21 and are no longer active projects. As a result, there are no projected costs

22 to complete the project and total project costs that need to be tracked for

23 the project and, therefore, no need for these NFR Schedules.

24

1 **III. CARRYING COST RATES AND SEPARATION FACTORS.**

2 **Q. What is the carrying cost rate used in the 2014 Detail and 2015 Detail**
3 **Schedules?**

4 A. Beginning in February 2013 for the CR3 Uprate and July 2013 for the LNP,
5 DEF is using the rate specified in Rule 25-6.0423(7)(b), F.A.C.: “The
6 amount recovered under this subsection will be the remaining unrecovered
7 Construction Work in Progress balance at the time of abandonment and
8 future payment of all outstanding costs and any other prudent and
9 reasonable exit costs. The unrecovered balance during the recovery period
10 will accrue interest at the utility’s overall pretax weighted average midpoint
11 cost of capital on a Commission adjusted basis as reported by the utility in
12 its Earnings Surveillance Report filed in December of the prior year, utilizing
13 the midpoint of return on equity (ROE) range or ROE approved for other
14 regulatory purposes, as applicable.” The carrying cost rate used for this
15 time period is 7.23 percent. On a pre-tax basis, the rate is 10.29 percent.
16 This annual rate was also adjusted to a monthly rate consistent with the
17 AFUDC rule, Rule 25-6.0141, Item (3), F.A.C. Support for the components
18 of this rate is shown in Appendix C of Exhibit Nos.__(TGF-4) for the LNP
19 and (TGF-5) for the CR3 Uprate project.

20

1 **Q. What was the source of the separation factors used in the 2014 Detail**
2 **and 2015 Detail Schedules?**

3 A. The jurisdictional separation factors are consistent with Exhibit 1 to the
4 2013 Settlement Agreement approved by the Commission in Order No.
5 PSC-13-0598-FOF-EI in Docket No 130208-EI.

6
7 **IV. COST RECOVERY FOR THE LEVY COUNTY NUCLEAR PROJECT.**

8 **A. ACTUAL/ESTIMATED LNP COSTS.**

9 **Q. What are the total estimated revenue requirements for the LNP for the**
10 **calendar year ended December 2014?**

11 A. The total projected revenue requirements for the LNP are \$38.8 million for
12 the calendar year ended December 2014, as reflected on 2014 Detail
13 Schedule Line 22 in Exhibit No__(TGF-4). This amount includes \$25.2
14 million in exit/wind-down and disposition costs as can be seen on Lines 5a
15 and 19d, and \$13.5 million for the carrying costs on the unrecovered
16 investment balance shown on Line 8d. These amounts were calculated in
17 accordance with the provisions of Rule 25-6.0423, F.A.C.

18
19 **Q. What is included in the revenue requirement for the period on the 2014**
20 **Detail Schedule, Line 9?**

21 A. The annual total of \$38.4 million reflected on 2014 Detail Schedule, Line 9
22 represents the total uncollected investment revenue requirement for 2014.
23 This amount includes current period expenditures totaling \$24.8 million
24 along with the carrying cost on the average net unamortized plant eligible

1 for return. The total return requirements of \$13.5 million presented on Line
2 8d represents the carrying costs on the average uncollected investment
3 balance.

4
5 **Q. What is included in the Other Exit / Wind-down Expenditures on 2014**
6 **Detail Schedule?**

7 A. The expenses included on this schedule represent other exit and wind-
8 down costs including regulatory and administrative wind-down support
9 costs that the Company expects to incur in 2014 related to the LNP that
10 DEF is seeking recovery of through the NCRC.

11
12 **Q. How did these expenditures for January 2014 through December 2014**
13 **compare with DEF's projected costs for 2014?**

14 A. Appendix B, Line 5 shows that total Other Exit & Wind-down costs were
15 \$0.4 million or \$0.1 million lower than estimated. There were no major
16 variances with respect to these costs.

17
18 **B. EXIT & WIND-DOWN COSTS INCURRED IN 2014 FOR THE LEVY**
19 **NUCLEAR PROJECT.**

20 **Q. What are the exit and wind-down costs incurred for the Levy Nuclear**
21 **Project for the period January 2014 through December 2014?**

22 A. 2014 Detail Schedule Exhibit No__ (TGF-4) Lines 1e, Line 3e, and Line 12e
23 show that total exit and wind-down expenditures excluding carrying costs
24 were [REDACTED].

1 **Q. What do Lines 1 through 4 on 2014 Detail Schedule represent?**

2 A. 2014 Detail Schedule Exhibit No__ (TGF-4) Lines 1 through 4 reflect
3 actual/estimated monthly expenditures for 2014. This schedule includes
4 both the Generation and Transmission costs. These costs have been
5 adjusted to a cash basis to calculate carrying costs. The appropriate
6 jurisdictional separation factor was applied to arrive at the total jurisdictional
7 costs. These costs are further described in the testimony of Mr. Fallon.

8
9 **Q. Are there any costs related to disposition efforts for the Levy project
10 assets for the calendar year 2014 or 2015?**

11 A. Yes. Disposition costs of [REDACTED] occurred in January 2014. As a result
12 of this disposition, an outstanding 2013 milestone payment accrual of [REDACTED]
13 [REDACTED] for this vendor was no longer necessary and subsequently reversed
14 in 2014. The net of these amounts is shown on Line 1d of the 2014 Detail
15 schedule. DEF estimates approximately [REDACTED] of potential additional
16 disposition costs related to the Levy Long Lead Equipment expenses, to be
17 incurred in the fourth quarter of 2014, as further explained in Mr. Fallon's
18 testimony.

19
20 **Q. Did you project any credits for the sale or other disposition efforts
21 that will result in credits for the Levy project assets for the calendar
22 year 2014 or 2015?**

23 A. No. DEF cannot reasonably estimate the value of any potential sale or
24 disposition of any LNP asset. Value received from any disposition of an

1 LNP asset will be credited against the uncollected investment at the time of
2 disposition.

3
4 **Q. What process have you implemented to ensure that future costs**
5 **related to the Levy COLA are not included in the NCRC as of January**
6 **1, 2014?**

7 A. As discussed by Mr. Fallon, on a project team level DEF has always
8 segregated project costs incurred by specific project code and this process
9 did not change for 2014. The project team continues to charge Combined
10 Operating License ("COL") related labor, Nuclear Regulatory Commission
11 ("NRC") fees, vendor invoices and all other COL-related cost items to the
12 applicable COL project codes. The Regulatory Accounting and Regulatory
13 Strategy groups ensure that the COL-related project codes and associated
14 costs incurred in 2014 and beyond are not included in the Company's
15 NCRC Schedules, and thus not presented for nuclear cost recovery. We
16 will, however, continue to track the COL-related costs for accounting
17 purposes consistent with the 2013 Settlement Agreement.

18
19 **Q. What is the estimated true-up for 2014 expected to be?**

20 A. The total true-up is expected to be an under-recovery of \$8.0 million as can
21 be seen on Line 24 of the 2014 Detail Schedule.

1 **C. LNP COST PROJECTIONS.**

2 **Q. What is included in the projected period Revenue Requirements for**
3 **2015?**

4 A. The period revenue requirements of \$6.7 million in 2015, as depicted on
5 2015 Summary Schedule, Line 1d, includes period wind-down costs of \$1.2
6 million and carrying costs on uncollected investment balance of \$5.5 million.

7
8 **Q. What is included on the Total Return for the Period on 2015 Detail**
9 **Schedule, Line 8d?**

10 A. The Revenue Requirements of \$5.5 million depicted on this schedule on
11 Line 8d represent carrying costs on the average uncollected investment
12 balance. The schedule starts with the 2015 beginning balance, adds the
13 monthly capital expenditures, removes the monthly amortization of the
14 uncollected investment balance and computes the carrying charge on the
15 average monthly balance. The equity component of the return is grossed
16 up for taxes to cover the income taxes that will be paid upon recovery in
17 rates. The LNP balance of land at year end 2012 was removed from the
18 NCRC and reclassified to FERC Account 105 Plant Held for Future Use on
19 DEF's books pursuant to the terms of Exhibit 5 to the 2013 Settlement
20 Agreement approved by the Commission in Order No. PSC-13-0598-FOF-
21 EI in Docket No 130208-EI.

22

1 **Q. What are the exit and wind-down costs incurred for the Levy Nuclear**
 2 **Project for the period January 2015 through December 2015?**

3 A. 2015 Detail Schedule Exhibit No__(TGF-4) Lines 1e, 3e and Line 10e show
 4 that total exit and wind-down expenditures excluding carrying costs are
 5 estimated at [REDACTED].

6
 7 **Q. What is the total projected exit and wind-down costs that will be**
 8 **incurred for the period January 2015 through December 2015?**

9 A. As shown on Line 5c and Line 16d of 2015 Detail Schedule in Exhibit
 10 No.__(TGF-4), total projected jurisdictional costs for 2015 are \$1.2 million.
 11 The costs have been adjusted to a cash basis for purposes of calculating
 12 the carrying charge and the appropriate jurisdictional separation factor has
 13 been applied.

14
 15 **Q. What are the projected total revenue requirements that DEF will**
 16 **recover in 2015?**

17 A. DEF is requesting recovery consistent with the terms of the 2013
 18 Settlement Agreement. This means DEF will recover revenues consistent
 19 with application of the factors in Exhibit 9 of the 2013 Settlement Agreement
 20 to the sales forecast presented in the CCRC later in the year. DEF
 21 calculated the estimated revenue requirement by applying the rates in
 22 Exhibit 9 of the 2013 Settlement Agreement to the sales forecast included
 23 in the 2015 Estimated Rate Impact Schedule of Exhibit No. ____ (TGF-4) to
 24 generate the projected revenue for 2015. As can be seen in the 2015

1 Estimated Rate Impact Schedule in column 2, this amount is \$104.1 million.

2 This amount is further reflected on the 2015 Summary Schedule, Line 7.

3 This amount will be updated in the CCRC filing later in the year.

4
5 **Q. What is the rate impact to the residential ratepayer in 2015?**

6 A. The LNP residential rate impact is \$3.45/1,000kWh pursuant to the terms of
7 the 2013 Settlement Agreement. This appears in Exhibit No. ____ (TGF-4),
8 2015 Estimated Rate Impact Schedule.

9
10 **Q. Does the LNP residential rate established in the 2013 Settlement**
11 **Agreement affect the previously established LNP Rate Management**
12 **Plan?**

13 A. Yes. The 2013 Settlement Agreement fixes the LNP NCRC rate for the
14 period 2013-2017 and provides for a true-up in the last year. Prior to the
15 2013 Settlement Agreement, in Order No. PSC-09-0783-FOF-EI, the
16 Commission approved the deferral of LNP costs, approved a rate
17 management plan for the recovery of the deferred LNP costs, and required
18 DEF to update its rate management plan each year. The agreement to the
19 fixed LNP NCRC rate in the 2013 Settlement Agreement necessarily drives
20 the rate management plan updates. In 2012, in Order No. PSC-12-0650-
21 FOF-EI, the Commission approved amortization of \$88 million of the
22 deferred balance in 2013. In 2014, application of the revenues generated
23 by the fixed LNP NCRC rate to the deferred LNP balance resulted in the full

1 amortization of the deferred balance and the collection of the remaining
2 \$29.2 million in 2014 as shown in Appendix F in Exhibit No. ____ (TGF-4).

3
4 **Q. Have you provided schedules that show the impact of this proposed**
5 **amortization as well as an update to the overall plan?**

6 A. Yes. As I explained, Appendix A (page 3 of 3) of Exhibit No. ____ (TGF-4)
7 provides an overview of DEF's methodology used to allocate the 2015
8 revenue requirement resulting from the 2013 Settlement Agreement and the
9 resulting updated rate management plan.

10
11 **Q. Is DEF currently projecting to be fully-recovered in 2015?**

12 A. No. DEF currently shows a net unrecovered balance of \$6.1 million at year
13 end 2015. See Appendix A (page 3 of 3) of Exhibit No. ____ (TGF-4) to my
14 testimony.

15
16 **Q. Should the true-up contemplated in the 2013 Settlement Agreement**
17 **happen this year?**

18 A. No it should not. DEF is estimating a net unrecovered investment in the
19 amount of \$6.1 million at year-end 2015. Additionally, there are several
20 areas of potential costs that DEF has not included in its actual/estimated
21 2014 and projected 2015 costs because, as of the preparation date of this
22 testimony, DEF is unable to accurately estimate, but very well may incur
23 them, as explained by Mr. Fallon.

24

1 **V. COST RECOVERY FOR THE CRYSTAL RIVER 3 UPRATE PROJECT.**

2 **Q. What is the status of the CR3 Uprate project?**

3 A. As discussed more fully in the testimony of Mr. Delowery, the CR3 Uprate
4 project was cancelled because the Company decided to retire the CR3 Unit.

5
6 **Q. What are you requesting with respect to the CR3 Uprate project?**

7 A. DEF requests that the Commission approve recovery of the remaining
8 unrecovered investment in the CR3 Uprate project and the future payment
9 of all outstanding costs and any other reasonable and prudent exit costs
10 consistent with Section 366.93(6), Florida Statutes, and Rule 25-6.0423(7),
11 F.A.C. In support of this request, DEF has prepared Exhibit No. ____
12 (TGF-5), which shows the unrecovered investment and expected future
13 payments and exit costs through the end of 2015 for purposes of setting
14 2015 rates. In 2013, DEF requested Commission approval of recovery of
15 the remaining balance over a seven (7) year period beginning in 2013 and
16 ending in 2019; however DEF did not propose to change the 2013 rate.
17 DEF requests that the Commission approve the revenue requirements for
18 2015 to be placed into the CCRC of \$63.2 million as shown on the 2015
19 Revenue Requirement Summary Line 9 of Exhibit No.____(TGF-5).

20
21 **Q. Is the seven year recovery period appropriate?**

22 A. Yes. Pursuant to the 2013 Settlement Agreement, "DEF Shall recover all
23 CR3 EPU revenue requirements through the Nuclear Cost Recovery
24 Clause ("NCRC") consistent with the provisions of Section 366.93(6),

1 Florida Statutes (“F.S.”). and Commission Rule 25-6.0423(6) F.A.C. with a
2 seven (7) year amortization recovery period established 2013-2019.”

3

4 **Q. What is the total estimated unrecovered investment in the CR3 Uprate**
5 **project as of year-end 2013?**

6 A. The total 2013 unrecovered investment to be amortized is approximately
7 \$262.1 million, as shown on lines 3a – 3b beginning balance amount in the
8 2014 Detail Schedule of Exhibit No.____(TGF-5). This amount is the
9 construction costs incurred that have not been placed in service. This
10 amount does not include prior period over/under recoveries or period costs
11 like wind-down / exit costs.

12

13 **Q. How is DEF recovering this investment?**

14 A. DEF is recovering this balance over the remaining 6 year period from 2014-
15 2019 as approved by the Commission in Order PSC-13-0598-FOF-EI,
16 Docket No. 130208-EI.

17

18 **Q. Will DEF account for salvage or CR3 Uprate asset sales?**

19 A. Yes. To the extent DEF receives any salvage or re-sale value for the CR3
20 Uprate assets currently recovered through the NCRC, DEF will apply that
21 value to reduce the unrecovered balance.

22

23

1 **Q. How is DEF calculating the carrying cost collected over this**
2 **amortization period?**

3 A. DEF is using the rate specified in Rule 25-6.0423(7)(b), F.A.C. The
4 carrying cost rate used for this time period is 7.23 percent. On a pre-tax
5 basis, the rate is 10.29 percent. This annual rate was also adjusted to a
6 monthly rate consistent with the AFUDC rule, Rule 25-6.0141, Item (3),
7 F.A.C. Support for the components of this rate is shown in Appendix C of
8 Exhibit No.____(TGF-5).

9
10 **Q. What are the total estimated revenue requirements for the CR3 Uprate**
11 **project for the calendar year ended December 2014?**

12 A. The total estimated revenue requirements for the CR3 Uprate project are
13 \$24.7 million for the calendar year ended December 2014, as reflected on
14 page 4 line 22 of Exhibit No.____(TGF-5). This amount includes \$23.9
15 million for the carrying costs on the unrecovered investment balance shown
16 on Line 5d and \$0.9 million current period wind-down costs shown on Lines
17 2e and 16d. These amounts were calculated in accordance with the
18 provisions of Rule 25-6.0423, F.A.C. As discussed above, in Line 3d of the
19 2014 Detail Schedule, DEF has reflected amortization of an amount equal
20 to 1/6th of the estimated year end 2014 unrecovered construction cost
21 investment as presented in Exhibit No.____(TGF-6) filed with my testimony
22 on May 1, 2013.

23

1 **Q. What is the total estimated over or under recovery for the CR3 Uprate**
2 **project for the calendar year ended December 2014?**

3 A. The total estimated under- recovery is \$0.2 million as shown in Exhibit
4 No.__(TGF-5) 2014 Detail schedule line 24.

5
6 **Q. Did you project any credits for the sale or other disposition efforts for**
7 **the CR3 Uprate project assets for the calendar year 2014 or 2015?**

8 A. No. DEF has not estimated the salvage or re-sale value for the CR3 Uprate
9 assets at this time because that value is presently unknown and uncertain.
10 Value received from any disposition of an EPU asset will be credited
11 against the uncollected investment at the time of disposition.

12
13 **Q. Were there any true-up adjustments that needed to be made to**
14 **calculate the total estimated revenue requirements for the CR3 Uprate**
15 **project for the calendar year ended December 2015?**

16 A. Yes. As can be seen in Exhibit No. __ (TGF-5), Appendix A, DEF
17 recognized that as a result of a timing difference between DEF's calculation
18 of the subsequent year's revenue requirements and the filing of the
19 Company's Actuals True-up schedules there is to be a credit of \$87,291 in
20 Line 3e that resulted from a 2009 FPSC Audit adjustment and a debit of
21 \$499 in Line 10.

22

1 **Q. Are there any true-up adjustments that need to be made that do not**
2 **affect the total estimated revenue requirements for the CR3 Uprate**
3 **project for the calendar year ended December 2015?**

4 A. Yes. There is an accounting entry to be made in 2014 of approximately \$2.6
5 million that represents costs that were previously incurred and cash paid in
6 a prior period, without an offsetting accrual adjustment. The amount and
7 offset are shown on Line 1a and Line 2a, respectively, in the 2014 Detail
8 Schedule in Exhibit No. ____ (TGF-5). This adjustment will not affect the
9 revenue requirements, as it affects only the presentation of the figures in
10 the Detail schedules.

11
12 **Q. What are the total estimated revenue requirements for the CR3 Uprate**
13 **project for the calendar year ended December 2015?**

14 A. As can be seen in Exhibit No. ____ (TGF-5), 2015 Summary Schedule Line
15 7, the total estimated revenue requirements are \$63.2 million. This consists
16 primarily of \$43.7 million associated with amortizing the unrecovered
17 construction cost spend and \$19.5 million in period carrying costs, recovery
18 of current period exit and wind-down activities and prior period over
19 recoveries.

20
21 **Q. Does this conclude your testimony?**

22 A. Yes, it does.

1 **BY MS. GAMBA:**

2 Q Do you have a summary of your prefiled
3 testimony?

4 A Yes.

5 Q Will you please provide that summary to the
6 Commission.

7 A Yes. My March 3rd, 2014, direct testimony
8 presents for Commission review and approval the actual
9 2012 and 2013 costs associated with the company's Levy
10 Nuclear Project and Crystal River Unit 3 uprate project.
11 These have been calculated in accordance with the
12 nuclear recovery statute and rule.

13 My testimony also supports the prudence of
14 DEF's 2012 and 2013 accounting and cost oversight
15 controls for both projects. My May 1, 2014, direct
16 testimony presents DEF's estimated/actual 2014 and
17 projected 2015 exit and wind-down costs for the Levy
18 Nuclear Project and CR3 uprate project for Commission
19 review and approval.

20 My testimony also describes and supports the
21 total estimated revenue requirements for the LNP and CR3
22 uprate project for the purpose of setting 2015 rates in
23 the Capacity Cost Recovery Clause. I'm available to
24 answer any questions you may have. Thank you.

25 **MS. GAMBA:** We would tender Mr. Foster for

1 cross at this time.

2 **COMMISSIONER BRISÉ:** All right. Thank you
3 very much.

4 The Office of Public Counsel, you may proceed.

5 **MR. REHWINKEL:** Thank you, Mr. Chairman.

6 **EXAMINATION**

7 **BY MR. REHWINKEL:**

8 **Q** Good afternoon, Mr. Foster.

9 **A** Good afternoon.

10 **Q** I was going to try to be nice to you but the
11 Chairman said I can't cross you in a friendly fashion,
12 so I'm going to have to change my tactic.

13 **A** I had a feeling there would be no worries on
14 that front.

15 (Laughter.)

16 **Q** I think you told the Commission what your
17 title is. Can you tell what your function in the
18 company generally is?

19 **A** Yes. Generally I work, consider state and
20 federal rules, regulations, Commission rules, and work
21 to basically help the company analyze those and
22 translate those into kind of future impacts potentially
23 on the business. And then as it relates to this
24 specifically, it's primarily translating costs incurred
25 into revenue requirements per the statute and rule.

1 **Q** Are you generally in the part of the company
2 that is responsible for regulatory accounting?

3 **A** Rates, more rates than regulatory accounting,
4 but we work very closely with the reg accounting
5 department.

6 **Q** Okay. And you are a CPA in the State of
7 Florida; right?

8 **A** Yes, sir.

9 **Q** Can you tell me how many years you've been
10 presenting NFR schedules in support of the company's
11 NCRC cost recovery efforts?

12 **A** I believe it's five.

13 **Q** Okay. So 2010 was your first year?

14 **A** I think that's right. Yes.

15 **Q** Okay. And, Mr. Foster, you are familiar with
16 what long lead materials or long lead equipment is; is
17 that correct?

18 **A** Yes. I'm generally familiar with that term.

19 **Q** And if I say Duke in my, in my questions, will
20 you answer questions assuming today that I mean either
21 Duke as it is known today or Progress as it was before
22 the July 2nd, 2012, merger as called for based on the
23 time frame that the question covers?

24 **A** Yes.

25 **Q** And if I refer to the internal components of

1 the LNP as LLE or LLM, you know what I mean; right?

2 **A** LLN, I'm not sure.

3 **Q** M, long lead materials or long lead equipment.

4 **A** Oh, yes. Yes, I do.

5 **Q** Okay. And these LLM or LLE are the components
6 of the nuclear plant that require contractual
7 commitments and sufficient time for the raw materials,
8 labor, and manufacturing queue to be scheduled in time
9 to meet plant construction and commercial operation date
10 timeline for the LNP; is that right?

11 **A** That's my general understanding. Really when
12 you get into the detailed contracting, I'm not the right
13 guy for that.

14 **Q** By I just meant generally.

15 **A** Generally, yes.

16 **Q** Okay. Would you -- are you either aware or
17 would you accept my representation that on March 28th of
18 2008 Duke signed a letter of intent, or LOI, with
19 Westinghouse and Shaw, Stone & Webster, or the
20 consortium, to begin to secure the LLM?

21 **A** I would accept your representation.

22 **Q** Okay. And are you generally aware that the
23 EPC contract was signed on December 31, 2008?

24 **A** That sounds right. I forget the exact date,
25 but that's the right time frame. Yes.

1 **Q** The engineering, procurement, and construction
2 contract, or EPC.

3 **A** I got you. It's the EPC. Yes, sir.

4 **Q** Okay. And if I say WEC or Westinghouse, will
5 you assume in your answers to me, unless the context
6 clearly calls otherwise for you to, that I mean the
7 consortium?

8 **A** Yes, I can assume that.

9 **Q** Okay. Would you also agree with me that Duke
10 made initial payments to WEC in 2008 pursuant to the LOI
11 and related to certain of the LLM?

12 **A** I believe that's accurate. Yes.

13 **Q** Okay. Would you also agree with me that
14 pursuant to the EPC that was executed on 12/31/2008 that
15 Duke made additional payments for LLM in 2009?

16 **A** I'm not -- I would guess, but I don't know as
17 I sit here today.

18 **Q** Okay.

19 **A** I wasn't really focused on 2009.

20 **Q** Are you also aware that in April of 2009 Duke
21 issued a letter to WEC partially suspending the EPC?

22 **A** I'm not aware specifically of a letter on a
23 specific date.

24 **Q** Okay. But you are aware that in 2009 Duke
25 issued a letter to WEC partially suspending the EPC?

1 **A** I believe that's right. As far as the
2 timeline, the exact timeline, I can't, I can't really
3 opine on that.

4 **Q** Okay. Maybe Mr. Fallon might know that?

5 **A** I believe he'd be a better person to ask.
6 Yes, sir.

7 **Q** Okay. Now are you also aware that -- well,
8 first of all, you would agree with me that Duke at some
9 point in time suspended, issued a letter partially
10 suspending the EPC; right?

11 **A** Yes, I would agree with that.

12 **Q** And based on the accounting presentation that
13 you give to the Public Service Commission, you are also
14 aware that pursuant to that letter Duke made payments
15 for dispositioning long lead materials under the EPC; is
16 that right?

17 **A** Yes.

18 **Q** Okay. Are you also aware that after the,
19 after the letter partially suspending the EPC that Duke
20 conducted an ongoing analysis relating to the most
21 prudent steps to take regarding whether to continue
22 fabrication to suspend and store or to cancel certain of
23 the LLM or --

24 **A** I'm generally aware that those considerations
25 were being taken. But as far as -- I just want to be

1 clear that when it comes to, like, the day-to-day
2 administration of the contract and specifically the
3 timing under specific terms, I'm not that, I'm not the
4 right guy to ask about. Mr. Fallon has a lot more -- is
5 much more involved with that type of --

6 Q But what you present in your schedules are --
7 well, let me just go back to this. You're generally
8 aware, are you not, based on the way you present your
9 accounting schedules, that the purchase of LLM was
10 classified as preconstruction.

11 A Yes. Typically, yes.

12 Q And that's how you present it in your NFRs;
13 right?

14 A Yes.

15 Q When I say NFR, nuclear filing requirements,
16 those are the schedules TGF-4 and TGF-5, among others;
17 right?

18 A Yes.

19 Q Okay. So when you present your NFRs to the
20 Commission, you include in the preconstruction category
21 payments for the LLM under the EPC; is that right?

22 A Typically when there are payments associated
23 with it, yes.

24 Q Okay. And included in that are milestone
25 payments; is that right?

1 **A** Typically.

2 **Q** As well as dispositioning payments; i.e.,
3 negotiated fees to provision the LLM based on negotiated
4 arrangements between Duke and the consortium; is that
5 correct?

6 **A** Yes, it could be.

7 **Q** And when I say dispositioning, I'm not talking
8 about disposing of, but we're talking about whether you
9 keep, you keep fabricating, do you suspend, or do you
10 cancel; right?

11 **A** I mean, I'm struggling a little bit because we
12 started in '8 and '9, and now you mention TGF-4 and 5,
13 and I think that's more '14 and '15. So I'm just -- I
14 want to be clear that, yes, over time there have been
15 payments made for long lead equipment and materials.
16 And, yes, I think as everyone's aware, we're working
17 with, with WEC to wind down the EPC.

18 **Q** Okay. I just want to make a distinction just
19 between the word dispositioning and dispose.

20 **A** Okay.

21 **Q** You're not -- when you're talking about
22 dispositioning -- well, let me ask it in the context of
23 a different, different question.

24 Would you also agree that all of the LLM
25 payments, whether they were milestone payments or

1 negotiated fees or cancellation fees, have all been or
2 will all be as of this year included in the cost to be
3 recovered through the NCRC?

4 **A** Could you, could you say that one more time?
5 I'm sorry.

6 **Q** Yeah. Would you agree with me that all of the
7 payments for LLM, whether they are milestone payments,
8 negotiated fees, or cancellation fees, have all been or
9 will be as of this year included in the costs to be
10 recovered through the NCRC?

11 **A** No. To the extent they're known I would
12 agree, I think, but there may be some beyond this year.

13 **Q** Okay. So what -- okay. If I put the word
14 "known" in there, you would agree with that statement?

15 Let me do this.

16 **A** Let me be clear.

17 **Q** Let me ask you --

18 **A** There could be something that's known but not
19 paid. But, I mean, generally if it's, if it's been --

20 **Q** Okay. Let me get you to turn to TGF-4, page
21 4, if I can. And I'm going to ask you to turn to the
22 unredacted complete version of the schedule.

23 **A** Okay.

24 **Q** Are you there? This is --

25 **A** I'm there, yes.

1 Q Okay. Now I'm going to ask you question about

2 --

3 COMMISSIONER BRISÉ: Mr. Rehwinkel, if you
4 could just stop for one second so we, the Commissioners,
5 can get access to the unredacted as well.

6 MR. REHWINKEL: Okay.

7 COMMISSIONER BRISÉ: Do you have those?

8 MR. REHWINKEL: No. I just assumed that you
9 guys had the complete testimony. This is not an
10 exhibit. This is, this is what they filed.

11 MS. KLANCKE: Although you possess before you
12 the redacted versions, we do not currently possess in
13 this hearing room at this moment unredacted copies of
14 the witness's testimony.

15 COMMISSIONER BRISÉ: Okay.

16 MR. REHWINKEL: Well, I have to ask him this
17 question.

18 COMMISSIONER BRISÉ: Sure. Understood.

19 MR. REHWINKEL: And I'm going to do it in a
20 way that will require him to not vocalize the number
21 that I'm asking him about. So I'm not sure you actually
22 need to see it.

23 COMMISSIONER BRISÉ: Okay. Well, we're going
24 to be taking a break in about 15 minutes, so I want to
25 make, instruct staff to make sure that we have the

1 appropriate documents before us.

2 **MR. REHWINKEL:** And just for clarification,
3 when we get to Mr. Fallon, he has, in his March 3rd
4 testimony he has quite a bit of confidential
5 information. I will be inquiring of him on several
6 pages from that.

7 **COMMISSIONER BRISÉ:** Sure. All right. Thank
8 you.

9 **BY MR. REHWINKEL:**

10 **Q** So what I want you to do, and, again, this
11 is -- I'm going to ask you a question in one of these
12 yellow areas. I believe this number is highly
13 confidential, so I don't want you to verbalize it. What
14 I want to ask you is on line 1d, which is entitled
15 "Disposition," do you see that?

16 **A** Yes.

17 **Q** Okay. If you go over to the October column,
18 there is a number in 1d in October. Is, is that a
19 payment for disposition of LLM?

20 **A** That -- I don't, I don't believe so, but I
21 really think that, specifically if it's a payment for
22 LLM, is probably something you should ask Mr. Fallon.

23 **Q** Okay. What could it be for if it wasn't for
24 disposition in that, in that line?

25 **A** I'm not sure, when you refer to disposition,

1 I'm not sure exactly what you attach to that. But, I
2 mean, it could be some, some final kind of wrapping up
3 or something we feel is part of it. I mean, generally I
4 think that's, that's probably right, I think you're
5 probably right, but I would like to make sure with
6 Mr. Fallon.

7 Q Okay. So we'll put that aside and we'll ask
8 Mr. Fallon. But if I could ask you to look on the next
9 page, which is TGF-5, and ask you do you present any, in
10 any of the months, January through December of 2015, any
11 costs related to disposition for recovery?

12 A We are presenting any known costs, I guess
13 is --

14 Q I guess my question is are there any costs
15 that are presented in any of the lines 1a through 1d
16 on, on TGF-5 for 2015?

17 A Are there any new costs assumed there?

18 Q Yes.

19 A I just want to make sure --

20 **COMMISSIONER BRISÉ:** Mr. Rehwinkel -- I'm
21 sorry -- let's, let's do this. Let's take our break
22 now.

23 **MR. REHWINKEL:** Okay.

24 **COMMISSIONER BRISÉ:** So that we can get the
25 appropriate copies for us as the Commissioners.

1 **MR. REHWINKEL:** Okay.

2 **COMMISSIONER BRISÉ:** So I'm assuming that's
3 going to take maybe ten or 15 minutes for us to be able
4 to get those documents. Okay? And so, so we will
5 reconvene at 2:35.

6 **MR. REHWINKEL:** Okay. Thank you.

7 (Recess taken.)

8 **COMMISSIONER BRISÉ:** So just in case anyone
9 else wants to use confidential information, I know that
10 there might have been a little bit of confusion as to
11 whether the material that would be within the prefiled
12 testimony, if copies were needed for, for everyone on,
13 on those confidential documents. But if you intend to
14 use confidential documents, just be sure that you have
15 those copies. Okay? But I think we have that worked
16 out for, for today, and copies are being made of the
17 other materials so that we'll be able to move forward
18 this afternoon. So the floor is yours again.

19 **MR. REHWINKEL:** Thank you, Mr. Chairman. Are
20 we ready to go again?

21 **COMMISSIONER BRISÉ:** Yes, you may proceed.

22 **MR. REHWINKEL:** Okay. All right.

23 **BY MR. REHWINKEL:**

24 **Q** So let's -- now that everybody has TGF-4, if I
25 could ask you -- let's go back to TGF-4, page 4. And

1 this is 2014; right?

2 **A** Yes.

3 **Q** Okay. So if I look at the number -- and,
4 again, we don't want to verbalize this number, right,
5 on, in October, on line 1d. Is this a -- can you say
6 now whether this is a payment for dispositioning of LLM?

7 **A** That's my understanding. Yes.

8 **Q** Okay. And in 2015, if we could turn, I think
9 it's page 5 of TGF-4, that's year 2015; right?

10 **A** Yes, sir.

11 **Q** And in looking on line 1 I see no additions to
12 investment; is that right?

13 **A** Yes.

14 **Q** Okay. If there were storage and insurance
15 fees, would they be included somewhere in line 1?
16 Storage and insurance fees for LLM.

17 **A** To the extent we expected at the time and had,
18 you know, enough certainty to estimate them, I would
19 think so. Mr. Fallon's group provides these numbers to
20 us, so he would really be a better source to ask on
21 that.

22 **Q** Okay. Would it be fair to assume by seeing
23 all these zeros in lines 1 through, 1a through 1d in
24 2015 in the monthly columns, would it be fair to assume
25 that there would be an assumption that the LLM had

1 already been disposed before the beginning of 2015?

2 **A** I'm not sure that is fair. I think, as we
3 speak to in our testimony, if we weren't pretty sure of
4 a cost, we weren't putting it in here.

5 **Q** Okay. All right. Would it be fair to say
6 that 100 percent of the known LLM costs that Duke has
7 incurred will have been paid for by customers through
8 the end of 2015?

9 **A** No, I don't think so.

10 **Q** Why would you disagree with that?

11 **A** Well, as you know, there's an unrecovered
12 balance at the end of '15.

13 **Q** Okay. All right. So if I ask you this way,
14 except for \$6.1 million, would it be fair to say that
15 100 percent of the known or expected LLM costs will have
16 been paid for by customers by the end of 2015?

17 **A** I think that's right.

18 **Q** Now would you agree with me that in 2008
19 Duke made a payment to WEC in the amount of
20 \$2,348,660 related to the LLM known as reactor vessel
21 internals, or RVI?

22 **A** I don't have that information in front of me.
23 We may have. I don't remember in 2008 if we made a
24 specific payment for that amount.

25 **Q** Okay. What about in February of 2009, would

1 you agree that Duke made a payment of \$51,778,440 to WEC
2 related to the LLM known as turbine generators?

3 **A** Again we may have. I --

4 **Q** Okay. Are you familiar with the amount that
5 is in issue in this case totaling \$54,127,100.

6 **A** Yes, I'm aware of that amount.

7 **Q** Would you agree, subject to check, that that
8 is comprised of the two dollar amounts that I just read
9 to you in my prior two questions?

10 **A** Subject to check, yes.

11 **Q** Okay. And would you agree that, that Duke
12 made payments to WEC in that aggregate amount for those
13 two LLM, I should say related to those two LLM, and that
14 they were included in cost recovery in 2009?

15 **A** I believe that's correct. Yes.

16 **Q** And you've already -- you would agree also
17 that those, that \$54,127,100 was, at the time it was
18 recorded on your books, classified as preconstruction
19 costs; correct?

20 **A** Yes. I believe that's, that's what it was
21 recorded as.

22 **Q** And as such, Duke would, under the statute and
23 the rule, be entitled to collect those preconstruction
24 costs in the period in which they were recorded;
25 correct?

1 **A** Generally that's correct. We all know that
2 there have been some deferrals.

3 **Q** Okay. My question to you was you were
4 entitled to; right?

5 **A** Yes.

6 **Q** Okay.

7 **A** To the extent they were found to be prudently
8 incurred; I should clarify.

9 **Q** That's a good clarification.

10 So as you alluded to in your answer, these
11 \$54,127,100 were included in the \$273,890,000 asset
12 deferral known as the rate mitigation plan that the
13 Commission approved in 2009 for recovery over an
14 estimated five-year period beginning in 2010; right?

15 **A** I would think so, with the caveat that the
16 exact timing of payments -- I'm not -- eventually it
17 would have gotten into the deferred balance that we are
18 collecting.

19 **Q** Okay. So if I establish with Mr. Fallon that,
20 that this \$54,127,100 was recorded no later than
21 February of 2009, you would agree with me that those
22 dollars, by definition, would be included in the
23 273,890,000 that was in the rate, in the asset
24 mitigation, the rate mitigation plan; right?

25 **A** That -- when did you say they were paid again?

1 I'm sorry. I'm just -- it's been a while since I --

2 Q That's okay. If I establish with Mr. Fallon
3 that the 54,127,100 was, was paid to WEC no later than
4 February of 2009, then you would agree that they would
5 have been included in \$273,890,000 rate mitigation plan.

6 A I'm going to say subject to check, yes, that
7 sounds right.

8 Q Okay. I mean, you don't recall that there
9 were any preconstruction costs that were incurred but
10 not included in a rate mitigation plan, do you?

11 A No. I'm just -- you know, like I said, it's
12 been a while since '09. I wasn't particularly focused
13 on the rate mitigation plan from '09 leading into this.

14 Q Okay. Now would you also agree if I establish
15 with Mr. Fallon that this 54,127,100 was incurred in, in
16 February of 2009 and that from that point until those
17 dollars were fully recovered the customers would have
18 paid not only those asset or preconstruction costs but
19 carrying costs associated with them, would you agree
20 with that?

21 A I would agree that the customer would have
22 paid for costs that were found to be prudent in the
23 dockets. And to the extent these costs were presented,
24 audited, reviewed, and found prudent, then, yes, I would
25 agree with that.

1 **Q** Okay. So there would be carrying costs
2 associated with these. And you're, you're not aware
3 that any of the, any of the preconstruction costs
4 submitted have been disallowed related to LNP, have
5 they, based on not being prudent; right?

6 **A** To my knowledge, they have not.

7 **Q** Okay. So there would be the actual cost of
8 the asset that would be recovered, assuming it was
9 prudent; correct?

10 **A** Correct.

11 **Q** There would be carrying costs through July of
12 2013 at, I think it was 8.84 percent AFUDC rate?

13 **A** Yes.

14 **Q** Okay. And then after --

15 **A** On the unrecovered balance.

16 **Q** Okay. And then after that time it would
17 revert, would step down to, what, 6.85?

18 **A** I thought it was 7-point something, 7.2, but a
19 lower number.

20 **Q** Okay. Whatever it is in your schedule.

21 **A** Yeah.

22 **Q** All right. And would there also be a cost
23 that the customers would bear related to the
24 preconstruction costs that would be, that would be
25 related to deferred taxes?

1 **A** Potentially there could be.

2 **Q** Okay. And to your knowledge, the Commission
3 has not disallowed any preconstruction costs, carrying
4 costs, or deferred tax-related costs on any long lead
5 materials submitted for recovery by Duke to date; is
6 that right?

7 **A** Right. So I'd say specifically the Commission
8 has found costs incurred, if we're talking 2009 and
9 before, to be prudent and recoverable.

10 **Q** Okay. Would you also agree that the 2012 and
11 2013 settlement agreements, and I'm talking about the
12 ones with these parties here --

13 **A** Yes, sir.

14 **Q** -- established the basis for recovering
15 estimated remaining costs at the LNP from that time
16 forward at, at, at a levelized rate of \$3.45 per 1000
17 kilowatt hours, a ratio, of course, based on the
18 appropriate rate relationships for the other customers?

19 **A** Yes.

20 **Q** Okay. Would you agree with me that this fee
21 was designed to recover an estimated \$350 million
22 dollars plus carrying charges in what the settlement
23 referred to as the, quote, remaining LNP component
24 balance?

25 **A** I would, I would agree that's, that that was

1 used as a basis for developing it. I would say that it
2 was designed to set a fixed recovery over the window,
3 the 2013 through 2017 window, and that there was a
4 specific true-up mechanism associated with that.

5 Q Okay. Would you agree that the \$350 million
6 estimate -- and it was just that, an estimate, right --
7 generally included the then remaining rate mitigation
8 plan balance as well as other ongoing costs, payments,
9 and expenses, including COL pursuit costs through the
10 end of 2013 as well as other known exit and wind-down
11 costs?

12 A At the time it was developed, I believe it was
13 the best estimate.

14 Q Okay. So you can also agree with me then that
15 \$3.45 fee and the estimated dollar amount that it was
16 intended to recover thus effectively represents the
17 customers' payment of the balance of the 500 -- the
18 \$54,127,100 for the RVI and turbine generator LLM costs?

19 A Potentially a part of it. I mean, there -- it
20 may have been largely recovered prior to that point,
21 so -- but, yes, any remaining unrecovered?

22 Q Correct. You agree you can't actually trace
23 dollars, so you just know if you've got a balance, it's
24 not, nothing is fully recovered until it's all
25 recovered; is that right?

1 **A** I don't know that I'd agree with that because
2 the stuff in the rate management plan we're reflecting
3 is fully recovered.

4 **Q** Okay.

5 **A** So, but, yeah, I mean, yeah, there comes a
6 point where there's at this point definitely little
7 value in tracing to specific.

8 **Q** So you anticipated my next question. So if I
9 could get you to turn page 14 of your May 1 testimony.
10 Actually let's turn page 13.

11 **A** I'm on page 13.

12 **Q** Okay. And the Q and A that starts on line 10
13 asks if the residential rate established in the 2013
14 agreement affects the previously established LNP Rate
15 Management Plan. Do you see that, the question?

16 **A** Yes.

17 **Q** And the rate means that \$3.45 that I was, we
18 were just talking about; right?

19 **A** Yes.

20 **Q** Okay. And down at the bottom on line 22,
21 starting on line 22, it says, "In 2014, application of
22 the revenues generated by the fixed LNP NCRC rate to the
23 deferred LNP balance resulted in the full amortization
24 of the deferred balance and the collection of the
25 remaining \$29.2 million in 2014 as shown in Appendix F

1 in Exhibit Number" -- I guess what are we going to call
2 that, 2 now -- TGF-4; right?

3 **A** Yes.

4 **Q** Okay. Basically what I read there is that you
5 would agree that by paying the \$3.45 charge, at the end
6 of this year customers will have fully paid off the rate
7 mitigation plan that was, started off at \$273,890,000;
8 right?

9 **A** Yes.

10 **Q** Okay. And if we -- if I could just get you to
11 turn to that exhibit that you refer to, which is
12 Appendix F, which is page 15 of 15 of your TGF-4.

13 **A** I'm getting there.

14 I'm there.

15 **Q** Okay. So just for the record, in 2010, the
16 beginning -- when it says "BB Deferral," that means
17 beginning balance deferral; right?

18 **A** Correct.

19 **Q** So that's a balance that, that was at
20 12/31/2009; right?

21 **A** Yes.

22 **Q** Okay. And this, this, what this schedule
23 shows is it shows that, that this, this balance is
24 written off by CY, or current year, amortization
25 amounts, and we see those start at 36 million and go

1 down to 29 million; right?

2 **A** Yes.

3 **Q** And the carrying costs are shown under the
4 carrying costs column; right?

5 **A** Yes.

6 **Q** So if it is a fact that the \$54,127,100 is
7 embedded completely in the 273,890 balance there at the
8 beginning of 2010, and it is fully recovered by
9 December 31, 2014, you would agree that it is a
10 tautology that customers will have fully paid for that
11 54,127,100 at the end of this year.

12 **A** Yes.

13 **Q** Now can you tell me whether Duke has sold or
14 otherwise recovered any value for any of the LLM
15 components as we sit here today?

16 **A** That's a question for Mr. Fallon.

17 **Q** Okay. Do you -- let's see. If the
18 Commission -- if Duke had received any revenue, and I'm
19 not talking about a disposition payment where you pay a
20 vendor or a sub-vendor to stop what they're doing or to
21 cancel.

22 **A** Yes.

23 **Q** But I'm talking about you sell an asset to
24 another party and you get revenue, that would be
25 reflected as a credit in your NFR schedules; right?

1 **A** Yes. Correct.

2 **Q** Now isn't it true that for 2014 and 2015 there
3 are no such credits reflected in your NFRs?

4 **A** I think to the extent there could possibly
5 have been, they would be very minor and so they wouldn't
6 appear as a net. If there was in the time period of
7 2014, it would have been very minimal, and I'm just
8 struggling to remember exactly if there was.

9 **Q** Okay. So my question is asked to you in this
10 vein. If an entire LLM component or what exists of it
11 was sold, any revenues from that would be credited, and
12 there are no such credits in your NFRs; correct?

13 **A** I think that's correct.

14 **Q** Okay. I think I know what you're talking
15 about. Without getting into confidential information,
16 we're not talking about any major components being sold;
17 right?

18 **A** That's, that's my understanding.

19 **Q** Okay. Okay. This may take a little bit of
20 time and attention, Commissioners. I'm going to ask a
21 hypothetical question to Mr., Mr. Foster. So here's my
22 hypothetical. I want you to assume that WEC had agreed
23 on January 30, 2014, to credit Duke \$54,127,100 related
24 to the payments that Duke and the customers have made
25 for reactor vessel internals and turbine generators.

1 Okay?

2 **A** Okay.

3 **Q** And I want you to further assume that you
4 would have recorded this refund or credit to the benefit
5 of your customers as soon as it was received. Okay?
6 That's the second piece of the assumption. Do you
7 follow me?

8 **A** Okay.

9 **Q** And I want you to further assume that the
10 reactor vessel internals and the turbine generators were
11 never made or never begun. Okay?

12 **A** Okay.

13 **Q** All right. And then I want you to assume that
14 all other aspects of the numbers and the facts that are
15 under TGF-4 and 5 are the same except for the flow
16 through of this hypothetical credit in TGF-4, pages
17 4 and 5. Do you follow me?

18 **A** I follow you.

19 **Q** Okay. Let me see. I may have one more
20 assumption for you. And the final assumption is that
21 cost recovery is based on the \$3.45 fee.

22 **A** Okay.

23 **Q** Okay. All right. So --

24 **MS. GAMBA:** Commissioner, I'm going to have to
25 object just because this hypothetical includes facts

1 that are in the record -- are not in the record. And as
2 long as everyone understands that, we are fine with him
3 answering the question, but I just needed to preserve
4 that objection.

5 **MR. REHWINKEL:** That's a, that's a fair
6 question.

7 **COMMISSIONER BRISÉ:** Sure.

8 **MR. REHWINKEL:** And I, I'm not asking it in
9 any way than other than what I have said here.

10 **COMMISSIONER BRISÉ:** Sure.

11 **BY MR. REHWINKEL:**

12 **Q** So I want you to turn back to TGF-4, page 4.
13 Now would you agree with me that, assuming the facts
14 were as hypothesized, that the proper accounting
15 recognition would require you to record that
16 hypothesized \$54 million credit in January somewhere on
17 line 1, either as a direct reduction to the construction
18 balance in 1a or as salvage on line 1c?

19 **A** So I think you're asking me if we'd received
20 money back related to that, would we have reflected it?
21 And absolutely we would have. That's, that's embedded
22 in the settlement. So if that had actually happened, we
23 absolutely would have. Yes.

24 **Q** Okay. So if it came on January 30th, would
25 you record it in January?

1 **A** It would either be an accrual, or if we
2 actually had the cash in there, it would go in as cash.

3 **Q** Okay. So if you got it on the last day of
4 January, for carrying cost purposes would it be, would
5 you basically be reduce -- well, would the effect be an
6 11/12th effect rather than an 12/12ths?

7 **A** It depends when the cash went in. You know,
8 I'd have to run through the math.

9 **Q** All right.

10 **A** But generally it's going to be a de minimis
11 difference.

12 **Q** Right. Okay. Probably the right place to
13 record this would be on line 1a, right, since there's --
14 you wouldn't be selling anything. You'd just be getting
15 credit back for work that was never done, right, under
16 this hypothetical?

17 **A** I mean, that seems reasonable. If that had
18 actually happened, yes.

19 **Q** Okay. And, again, it wouldn't -- whether you
20 did it on 1a or 1b, it's not going to affect the math as
21 far as how it flows through the schedules; right?

22 **A** That's accurate.

23 **Q** Okay. Now would you also agree if this
24 hypothetical credit were to be made and recorded in
25 January of 2014, that it would reflect the amount --

1 and, again, I'm not -- I think -- well, this is not a
2 confidential number -- but it would affect the amount in
3 line 6h, end of period total?

4 **A** Where are you, 6h?

5 **Q** Yeah.

6 **A** Oh, are you on 2015 now, sir?

7 **Q** No, I'm still on 2014. I'm asking you if --
8 right now you have an amount of --

9 **A** I think you mean (i), 6i.

10 **Q** 6i, yes, correct. My eyes are not as good as
11 they used to be.

12 **A** That's all right.

13 **Q** So it would affect the amount on 6i.

14 **A** Yes. Had, had there been actual receipt of
15 that, it would have impacted the schedules when we
16 reflected it in them.

17 **Q** Okay. Now this would, this hypothetical
18 credit would affect lines, line 6a also; right?

19 **A** Yes. Yes, it would.

20 **Q** And that's, that's where the carrying costs
21 associated with the unrecovered balances is, is shown;
22 is that right?

23 **A** I'm sorry. 6a?

24 **Q** Yeah. Well --

25 **A** No. 8a through d is where the carrying costs

1 are calculated.

2 Q Calculated. Okay.

3 A Based on the average investment in line 7.

4 Q Where are they, once you calculate these
5 carrying costs in line 8, where do they show up in your,
6 in your schedule?

7 A In line 8, and then they also flow through to
8 the summary page of the period revenue requirements.

9 Q Okay. So --

10 A Go ahead. Sorry.

11 Q Would -- if you made this \$54 million
12 hypothetical credit, would the amount -- the balance is
13 at 103,585,865 in end of period total on 6i, would that
14 be \$54,127,100 less or would it be something more than
15 that?

16 A Which line? I apologize.

17 Q 6i in end of period total.

18 A It would be around that amount.

19 Q Okay. Why wouldn't it be exactly that amount?

20 A I'm trying to, I was just trying to think of
21 how potential carrying costs might play in.

22 Q Okay.

23 A Without -- I mean, there's a lot of
24 calculations in these sheets, and I'm trying to keep it
25 high level with the assumed alternate reality. I don't

1 know.

2 Q I understand. I understand. Yeah. This is a
3 hypothetical. I'm just trying to understand
4 directionally how the math would work here.

5 A I think one thing that's important to consider
6 is that, yes, if there was an actual payment in January,
7 that's how that math would work. If somebody said you
8 need to accrue, we realize you haven't received it,
9 there's a line where we'd have to adjust the non-cash
10 accruals because there's no cash and we only calculate
11 carrying costs on cash. So if you were -- if you put
12 something in there that hadn't actually happened, it
13 would be an accrual, and I think it would be important
14 to just socialize it. That would require you to treat
15 it as all other non-cash accruals have been treated over
16 the '08 to '14 time frame.

17 Q Okay. That's a fair point. So, so if it was
18 a, if it was a cash payment, then the, the carrying
19 charges that you calculate -- and I think on the
20 starting balance that carrying costs are, are calculated
21 on is -- well, you started with an average balance for
22 January; right?

23 A That's correct.

24 Q And you take -- in line 8 you take that all
25 the way through and you calculated 13,534,781 of

1 carrying costs for that balance as it is being amortized
2 or drawn down over the 12-month period; is that right?

3 **A** Yes. That's correct. So, yes.

4 **Q** So when I look at these numbers on -- okay.
5 So if, if that number -- let's assume, first of all, it
6 was a cash payment. If I reduce that 170 by 54 million
7 and I, on my iPhone I did a calculation and it came out
8 to 32 percent of 170 is what 54 is. Does that sound
9 about right to you?

10 **A** One, one little piece you might be forgetting
11 is you need to jurisdictionalize that.

12 **Q** Okay.

13 **A** But, I mean, so it's going to be a little
14 smaller than the 54.

15 **Q** All right. So what's the -- like 9 percent
16 you need to knock off or what?

17 **A** Maybe 8 percent.

18 **Q** Eight? Okay. So put aside the
19 jurisdictionalization for a minute here. If we
20 reduced -- could we, could we guesstimate the 13, what
21 the 13.5 million carrying costs would be if we took
22 91 percent of 54 percent of 54 million and reduced that
23 170 pro rata? Would you get a pro rata carrying cost?

24 **A** You know, I would not try to guesstimate that,
25 frankly, on the stand by assuming something that did not

1 happen in an actual period and then has a 12-month
2 impact and several calculations. I'm hesitant to off
3 the cuff make an assumption.

4 Q Okay. So if, if you reduce the beginning
5 balance by 33 percent, shouldn't the ending balance,
6 assuming everything else is the same, shouldn't the
7 ending balance of carrying costs be about 33 percent
8 lower?

9 A That sounds reasonable, yes. That would be
10 generally my expectation.

11 Q All right. So the 54 million hypothesized
12 reduction on a cash basis to the 103, you'd have to
13 jurisdictionalize it, right, assuming you
14 jurisdictionalized it?

15 A That's correct.

16 Q You would -- the reduction to the, to the
17 unrecovered balance for, for, beginning 1/1/15 would be
18 essentially 91 percent of the 54,000,000 off of the 103
19 plus another 33 percent of the 13 million to give you
20 kind of generally where you would be to start the next
21 year; is that right?

22 A Subject to check, that's generally where you'd
23 expect to be.

24 Q Okay. And I'm not trying to pin you down that
25 this is how the math flows because I know you've got an

1 elaborate computer program that calculates all your
2 costs, does your carrying costs probably on a daily
3 compounded basis; right?

4 **A** I don't know that it's daily. I believe it's
5 monthly, but.

6 **Q** Okay. But your averages are daily balances;
7 right?

8 **A** Typically it doesn't calculate on a daily
9 basis.

10 **Q** Okay. So anyway we're going to start the next
11 year some 54 million and maybe four or five million
12 dollars, like 50 -- close to \$60 million less; right?

13 **A** I'm going to guess it would be more like 55
14 but, yes, generally.

15 **Q** Okay. 55 less. So you'd take that 55 and the
16 same thing would happen; it would flow all the way
17 through in the same manner, the, the carrying costs
18 would be lower and the end of period balance would be
19 lower as well; right?

20 **A** Yes. If the unrecovered balance were lower,
21 your carrying costs would be lower as well. That's
22 accurate.

23 **Q** Okay. So just kind of eyeballing this, it
24 looks like instead of a \$6.1 million unrecovered
25 balance, you would definitely -- and assuming my

1 hypothetical and the 345 recovery and nothing else
2 changes, you could be in the \$40 to \$50 million
3 overrecovered neighborhood by the time you ended 12/15
4 if nothing else changed; right?

5 **A** In that area you could, yes.

6 **Q** Okay. Now the same questions that I just
7 asked you but if it was an accrual basis, you'd have a
8 lower impact by the time you got to the end of 2015
9 because you wouldn't have affected your carrying cost
10 calculation; is that right?

11 **A** That's accurate. Your net investment actually
12 wouldn't show a lower basis.

13 **Q** Okay. But -- okay.

14 **A** So just to, I mean just to clarify, if you had
15 to record something in an actual period where cash
16 hadn't been received, you would have to record it as an
17 accrual. We wouldn't be able to do it on our accounting
18 books because GAAP doesn't allow that for potential
19 gains of this type, if you will. So there would be a
20 difference between what was presented here and our
21 actual books, which would be unusual. And at the end of
22 the day because it was an accrual, I think the net net
23 effect is there's no effect other than you're showing
24 that there's some cash that may come in at some point.
25 I'm just --

1 **Q** Okay. Now you're aware of the fuel adjustment
2 clause accounting; right?

3 **A** I am aware of the fuel adjustment clause.

4 **Q** Okay. You're aware that in 2011 Duke made a
5 credit in the fuel adjustment clause of \$328 million for
6 an anticipated NEIL or Nuclear Electric Insurance
7 Limited insurance payment; right?

8 **A** Say that one more time, because I think --

9 **Q** You're aware that in 2011 Duke recorded a
10 credit of \$328 million in the fuel adjustment clause for
11 NEIL insurance proceeds that they anticipated receiving;
12 correct?

13 **A** I believe they did that in a future non-actual
14 period. So, for instance, out in the projected period,
15 I believe. I wasn't the witness on that one, but I
16 believe they didn't put something they hadn't received
17 in actuals, rather reflected it out in ratemaking space,
18 if you will.

19 **Q** Okay. But it affected the rates that
20 customers paid by \$328 million. You would agree with
21 that; right?

22 **A** I would agree that that was done, yes.

23 **Q** Okay. And that that, the \$328 million credit,
24 affected rates that were based on the period to which it
25 was attributed to or recorded for; right?

1 **A** I would generally agree with that, that there
2 was an amount placed for an assumed receipt from NEIL
3 placed in rates in the ratemaking space. But I would
4 say that I feel like it's a very different situation.

5 **Q** Okay. But it was a real thing for the
6 customers because didn't, didn't the customers have to
7 pay that money back when they actually -- when you
8 actually received the NEIL proceeds in May, let's say,
9 of 2013?

10 **A** Didn't they pay that, the customers pay that
11 money back? I'm not sure I understand your question.
12 Sorry. I don't believe the customers paid that money
13 back. I believe it was set in rates so they didn't pay
14 it ever. And then when it was actually received, it
15 just kind of, okay, that reduces an underrecovery.

16 **Q** Okay. So when, when this language that is in
17 the 2013 agreement says, "DEF shall collect from
18 customers the approximately 328 million for system,
19 328 -- 326 million retail previously credited in the
20 fuel adjustment clause beginning with the first billing
21 cycle for January of 2014," that doesn't say that the
22 customers have to pay higher rates to return to Duke the
23 money that Duke advanced to customers in a prior period
24 for rate setting purposes.

25 **A** Right. So let me clarify, because you're

1 right. So what we baked in there, right, in that 328,
2 eventually now you don't have to assume another credit
3 because we'd actually received the money from NEIL. So,
4 yes, what was baked in. But then again they got the
5 credit for greater than 328 from NEIL. So that's why I
6 said initially that they didn't actually have to pay it
7 because net they were, you know, held harmless because
8 we actually received it and -- (inaudible/simultaneous
9 conversation.)

10 Q But both of these in differing periods,
11 ratemaking periods, both of these affected rates that
12 customers pay; correct?

13 A You're speaking about both -- just the fuel
14 now?

15 Q Yes.

16 A They did both affect rates.

17 Q Okay. In the first instance they reduced
18 rates, in the second instance they increase rates
19 relative to what would have happened if the credit had
20 not been returned.

21 A I would say that language, my understanding of
22 that language was it was put in there to be absolutely
23 clear that that 328, which was part of the -- I think it
24 was roughly 490 ultimately received -- it was an
25 assumption upon what would be received from, from NEIL,

1 but that that wasn't going to get passed on and then
2 passed on again, get basically passed on twice. So it
3 was, okay, this credit is going to go away because we're
4 actually passing the cash that we've gotten back from
5 NEIL to you. So net net -- I think we're saying the
6 same thing, but I feel it's a little odd to say they
7 were paying it because they were actually getting offset
8 by the NEIL payment.

9 Q Okay. So isn't it also true that at the time
10 the 328 was credited to the fuel clause for ratemaking
11 purposes that NEIL was disputing its obligation to make
12 any payments to Duke for, for the claim that Duke had
13 filed against NEIL?

14 A So I'm not aware that they were, but first I
15 don't know. I wasn't involved in all those
16 negotiations. What I do know is that after the first
17 incidence they paid, I think, around 160 million under
18 that claim. And then my understanding is after the
19 second one they were evaluating, and I'm sure they were
20 evaluating lots of things, but whether it was a single
21 or, or more than one event. So there was a pause.

22 My understanding is our company's position was
23 we fully expect to get those, those dollars back or to
24 get them from NEIL. We think they're owed us. And we
25 made a decision and we brought it to the Commission and

1 because, okay, maybe you've got a hundred thousand
2 dollar project and the end of the year is coming up and
3 we know \$50 thousand of it has been, the work's been
4 performed. Maybe you haven't made the payment out the
5 door, but you need to recognize that on your books. So
6 that's how I think of an accrual. When you get out into
7 ratemaking space, I don't really think of it as you made
8 an accrual, if that makes any sense to you.

9 (Transcript continues in sequence in Volume
10 3.)

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1 STATE OF FLORIDA)
 : CERTIFICATE OF REPORTER
 2 COUNTY OF LEON)

3
 4 I, LINDA BOLES, CRR, RPR, Official Commission
 Reporter, do hereby certify that the foregoing
 5 proceeding was heard at the time and place herein
 stated.

6
 7 IT IS FURTHER CERTIFIED that I stenographically
 reported the said proceedings; that the same has been
 transcribed under my direct supervision; and that this
 8 transcript constitutes a true transcription of my notes
 of said proceedings.

9
 10 I FURTHER CERTIFY that I am not a relative, employee,
 attorney or counsel of any of the parties, nor am I a
 relative or employee of any of the parties' attorney or
 11 counsel connected with the action, nor am I financially
 interested in the action.

12 DATED THIS 5th day of August, 2014.

13
 14 *Linda Boles*

15
 16 LINDA BOLES, CRR, RPR
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