

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

**In re: Nuclear Cost Recovery
Clause**

DOCKET NO. 160009-EI

Submitted for filing: April 27, 2016

REDACTED

DIRECT TESTIMONY OF CHRISTOPHER M. FALLON

**ON BEHALF OF
DUKE ENERGY FLORIDA, LLC**

IN RE: NUCLEAR COST RECOVERY CLAUSE

BY DUKE ENERGY FLORIDA, LLC.

FPSC DOCKET NO. 160009-EI

DIRECT TESTIMONY OF CHRISTOPHER M. FALLON

1 **I. INTRODUCTION AND QUALIFICATIONS.**

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

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

5

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

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

10

11 **Q. Have you previously provided testimony in Docket No. 160009-EI?**

12 A. Yes. I submitted direct testimony in this docket on March 1, 2016.

13

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

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

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

1 and its suppliers subsequent to the termination of the Engineering, Procurement, and
2 Construction (“EPC”) Agreement with WEC and Stone & Webster, Inc. (“S&W”)
3 (together, the “Consortium”). I present and support DEF’s 2016 actual/estimated and
4 2017 projected LNP wind-down costs related to these wind down activities.

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

16 Finally, as noted in my March 2, 2016 testimony, pursuant to the stipulation
17 approved by the Commission in Order No. PSC-15-0521-FOF-EI, DEF has agreed to
18 include all known LNP costs and credits in the 2017 True-up filing for consideration
19 and review in the 2017 NCRC docket for use in setting the 2018 NCRC factor.
20

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

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

1 portions of the 2016 and 2017 Detail Schedules and sponsoring Appendices D and E.
2 These Schedules reflect the 2016 and 2017 actual/estimated revenue requirement
3 calculations, the major task categories and expense variances, and a summary of
4 contracts and details over \$1 million.

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

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

9 A. DEF is nearly complete with its wind-down plan for the LNP. DEF continues to work
10 through the final disposition efforts for the Levy LLE. As such, the only LNP related
11 costs incurred in 2016 to date and projected for the remainder of 2016 are related to
12 the final disposition efforts for a portion of the remaining Levy LLE. All 2016 and
13 2017 costs related to obtaining and maintaining the COL (including any deferred
14 licensing costs) are not reflected in the Exhibits because recovery of these costs is not
15 being sought through the NCRC per the 2013 Settlement Agreement.

16 DEF continues to advance its claims against WEC and defend the claims WEC
17 has asserted against DEF in the North Carolina federal court litigation.

18 DEF currently plans to continue its COLA work to obtain the COL for the
19 Levy site from the NRC. DEF currently anticipates COL receipt in or around October
20 of 2016.

21
22 **III. LNP WIND-DOWN ACTIVITIES.**

1 **Q. Does DEF have actual/estimated costs in 2016 as a result of Levy wind-down**
2 **activities?**

3 A. Yes. DEF's actual/estimated 2016 wind-down costs are [REDACTED]. See 2016 Detail
4 LNP Schedule of Exhibit No. ____ (TGF-3) to Mr. Foster's testimony. Mr. Foster also
5 describes other wind-down costs projected for 2016 and 2017.

6
7 **Q. Please describe the Levy wind-down activities and costs.**

8 A. Wind-down cost were incurred and will be incurred in 2016 for (1) internal Duke
9 Energy labor to assist with disposition of the remaining LLE; and (2) regulatory and
10 wind-down support. DEF is attempting to disposition the remaining LLE in 2016 and
11 there will be costs associated with this activity, however DEF does not include in this
12 filing potential, future wind-down or LLE disposition costs or credits that DEF cannot
13 reasonably quantify at this time.

14
15 **Q. Does DEF project that it will incur Levy wind-down costs in 2017?**

16 A. No, DEF does not expect wind-down costs in 2017. If any costs do arise, they will be
17 presented to the Commission as part of the March 2017 true-up filing, with the
18 understanding that DEF will not seek recovery of any such costs prior to the May 2017
19 filing, as discussed above.

20
21 **Q. What is the status of DEF's litigation with WEC?**

22 A. DEF's lawsuit with WEC is currently pending before the United States District Court
23 for the Western District of North Carolina. DEF continues to vigorously pursue its

1 claims and to vigorously defend against the claims WEC has brought in that lawsuit.
2 The current case management schedule includes a trial date for October 17, 2016.
3 DEF cannot reasonably predict the outcome of this litigation and cannot project the
4 costs or refunds resulting from the resolution of the claims in this litigation.
5

6 **IV. LEVY COMBINED OPERATING LICENSE APPLICATION UPDATE.**

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

8 A. There are three parts to the NRC COLA review process and all three parts must be
9 complete before the NRC will issue a COL. Those three parts of the NRC COLA
10 review process are: (i) the environmental review process; (ii) the safety review
11 process; and (iii) the formal hearing process.

12 The environmental review process for the Levy COLA was complete when
13 DEF received the Levy final environmental impact statement (“FEIS”) on April 27,
14 2012. The remaining two parts of the NRC COLA review process for the Levy COLA
15 are incomplete although steps in these review processes have been completed.
16

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

18 A. The Final Safety Evaluation Report (“FSER”) for the Levy COL has not been issued.
19 The Advanced Safety Evaluation Report (“ASER”), was initially completed with no
20 open items on September 15, 2011, however, as previously explained, subsequent,
21 significant design errors identified by WEC required revisions to the ASER to
22 incorporate changes to correct these design errors before NRC review could be
23 finalized. The LNP ASER was completed on March 7, 2016. Also, the Advisory

1 Committee on Reactor Safeguards (“ACRS”) review was completed April 7, 2016, as
2 anticipated. DEF currently projects to receive the FSER in or around June 2016.

3
4 **Q. What is the status of the formal hearing process for the Levy site COL?**

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

9 The second part of the two-part formal hearing process is the LNP COLA
10 mandatory hearing before the NRC Commissioners. DEF is currently anticipating the
11 mandatory hearing will be held in or around July 2016, but the projection is premised
12 on the receipt of the FSER along the projected timeline discussed above. Any delays
13 in receiving the FSER would impact this projection as well.

14
15 **Q. What is the status of the environmental permits for the Levy COL?**

16 A. As stated in my March 1 testimony, the U.S. Army Corps of Engineers (“ACOE”)
17 issued the Section 404 Permit for the Levy site on December 28, 2015.

18
19 **Q. When does DEF expect to receive the COL for Levy?**

20 A. The Company’s current internal estimate is that the NRC will issue the Levy COL in
21 or around October 2016.

22
23 **Q. What are DEF’s current plans for the Levy site if DEF receives the COL?**

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

6
7 **V. PROJECT MANAGEMENT AND COST CONTROL OVERSIGHT.**

8 **Q. Has the Company implemented any additional project management and cost**
9 **control oversight mechanisms for the LNP since your testimony was filed in**
10 **March 2016?**

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

1 **VI. CONCLUSION.**

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

4 A. Yes. DEF will continue to work through the final LNP LLE disposition and will
5 make the prudent disposition decision for the benefit of DEF's customers. DEF
6 intends to vigorously pursue and defend its rights under the EPC Agreement in the
7 current litigation with WEC. DEF's actions have been and will continue to be
8 reasonable and prudent for DEF and its customers.

9

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

11 A. Yes it does.