



**Matthew R. Bernier**  
SENIOR COUNSEL  
Duke Energy Florida, LLC

March 1, 2017

**VIA ELECTRONIC DELIVERY**

Ms. Carlotta Stauffer, Commission Clerk  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, Florida 32399-0850

Re: Docket 170009-EI  
Duke Energy Florida, LLC's First Request for Confidential Classification

Dear Ms. Stauffer:

Attached is Duke Energy Florida, LLC's ("DEF") First Request for Confidential Classification of certain information provided in DEF's true-up testimony and exhibits filed contemporaneously in the above-referenced matter. This filing includes:

- Exhibit A (confidential slipsheet only)
- Exhibit B (2 copies of redacted information)
- Exhibit C (justification matrix)
- Exhibit D (Affidavit of Christopher M. Fallon)

DEF's confidential Exhibit A that accompanies the above-referenced filing, has been submitted under separate cover.

Thank you for your assistance in this matter. If you have any questions, please feel free to contact me at (850) 521-1428.

Sincerely,

*/s/ Matthew R. Bernier*

Matthew R. Bernier

MRB:at  
Attachments

**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

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**In re: Nuclear Cost Recovery Clause**

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**DOCKET NO. 170009-EI**

**FILED: March 1, 2017**

**DUKE ENERGY FLORIDA, LLC'S FIRST  
REQUEST FOR CONFIDENTIAL CLASSIFICATION**

Duke Energy Florida, LLC, ("DEF" or "the Company"), pursuant to Section 366.093, Florida Statutes, and Rule No. 25-22.006(3), Florida Administrative Code, files this First Request for Confidential Classification regarding portions of the testimonies and exhibits filed as part of the Company's March 1, 2017 True-Up filing ("the Request"). In support of this request, DEF states:

As further explained below, portions of the testimony and exhibits contain "proprietary confidential business information" under section 366.093(3), Fla. Stat.

The following exhibits are included with this request:

(a) Sealed Composite Exhibit A is a package containing an unredacted copy of all the documents for which DEF seeks confidential treatment. Composite Exhibit A is being submitted separately in a sealed envelope labeled "CONFIDENTIAL." In the unredacted version, the information asserted to be confidential is highlighted in yellow.

(b) Composite Exhibit B includes two copies of redacted versions of the documents for which the Company requests confidential classification. The specific information for which confidential treatment is requested has been blocked out by opaque marker or other means.

(c) Exhibit C is a table which identifies by page and line the information for

which DEF seeks confidential classification and the specific statutory bases for seeking confidential treatment.

(d) Exhibit D includes affidavits attesting to the confidential nature of information identified in this request.

DEF is seeking confidential classification of the following materials filed with the Florida Public Service Commission (“FPSC” or the “Commission”) in the above referenced docket: (1) portions of the testimony of Mr. Thomas G. Foster and Exhibit No. \_\_ (TGF-1); and (2) portions of the testimony of Mr. Christopher M. Fallon and Exhibit No. \_\_ (CMF-1). An unredacted version of the documents discussed above is being filed under seal with the Commission as Exhibit A on a confidential basis to keep the competitive business information in those documents confidential.

In support of this Request, DEF states as follows:

**The Confidentiality of the Documents at Issue**

Section 366.093(1), Fla. Stat., provides that “any records received by the Commission which are shown and found by the Commission to be proprietary confidential business information shall be kept confidential and shall be exempt from [the Public Records Act].” § 366.093(1), Fla. Stat. Proprietary confidential business information means information that is (i) intended to be and is treated as private confidential information by the Company, (ii) because disclosure of the information would cause harm, (iii) either to the Company’s ratepayers or the Company’s business operation, and (iv) the information has not been voluntarily disclosed to the public. § 366.093(3), Fla. Stat. Specifically, “information concerning bids or other contractual data, the disclosure of which would impair the efforts of the public utility or its affiliates to contract for goods or services on favorable terms” is defined as proprietary confidential business information. § 366.093(3)(d), Fla. Stat. Additionally, subsection 366.093(3)(e) defines

“information relating to competitive interests, the disclosure of which would impair the competitive business of the provider of the information,” as proprietary confidential business information.

### **Testimony and Exhibits**

#### **Levy Nuclear Project**

As listed above, portions of the testimony of Mr. Foster and attached Exhibit No. \_\_ (TGF-1) (“Schedule”) contain confidential and sensitive contractual information and cost numbers regarding the Levy Nuclear Project (“LNP”), the disclosure of which would impair DEF’s competitive business interests and ability to negotiate favorable contracts, as well as violate contractual nondisclosure provisions of these contracts. See Affidavit of Fallon, ¶ 4.

Regarding the LNP specifically, the testimony of Mr. Fallon also contains data that is competitively sensitive under the terms and conditions of the Engineering, Procurement, and Construction contract (“EPC Agreement”) with Westinghouse Electric Company and Stone & Webster, Inc. (the “Consortium”). See Affidavit of Fallon, ¶ 5.

Additionally, DEF is requesting confidential classification of Exhibit CMF-1 to the testimony of Mr. Fallon because this exhibit contains confidential settlement information between the DEF, the Consortium, and its vendors regarding the disposition of long lead equipment (“LLE”) for the LNP. This information would adversely impact DEF’s competitive business interests, and ongoing LLE disposition process and wind down negotiations, if disclosed to third parties. See Affidavit of Fallon, ¶ 6. As such, this information qualifies as “information relating to competitive interests, the disclosure of which would impair the competitive business of the provider of the information,” and as proprietary confidential business information under subsection 366.093(3)(e), Fla. Stat.

DEF must be able to assure these vendors that sensitive business information will be kept confidential during negotiations. See Affidavit of Fallon, ¶ 7. Indeed, the contract at issue contains confidentiality provisions that prohibit the disclosure of the terms of the contract to third parties. See Affidavit of Fallon, ¶ 7-8. Additionally, revealing negotiated LLE disposition terms to third parties may compromise DEF's ability to negotiate additional LLE dispositions on a favorable basis. If third parties were made aware of confidential terms that DEF has with other parties, they may offer DEF less competitive contractual terms in future contractual negotiations and it would impair DEF in on-going negotiations. See Affidavit of Fallon, ¶ 7.

Without DEF's measures to maintain the confidentiality of sensitive terms in contracts between DEF and these nuclear contractors, the Company's efforts to obtain competitive contracts for the LNP would be undermined. Affidavit of Fallon, ¶ 7.

### **Confidentiality Procedures**

Strict procedures are established and followed to maintain the confidentiality of the terms of all of the confidential documents and information at issue, including restricting access to those persons who need the information and documents to assist the Company. See Affidavit of Fallon, ¶ 9.

At no time has the Company publicly disclosed the confidential information or documents at issue; DEF has treated and continues to treat the information and documents at issue as confidential. See Affidavit of Fallon, ¶¶ 8-9. DEF requests this information be granted confidential treatment by the Commission.

### **Conclusion**

The competitive, confidential information at issue in this Request fits the statutory definition of proprietary confidential business information under Section 366.093, Florida Statutes, and Rule 25-22.006, F.A.C., and therefore that information should be afforded

confidential classification.

WHEREFORE, for the foregoing reasons, DEF respectfully requests that this First Request for Confidential Classification be granted.

RESPECTFULLY SUBMITTED this 1<sup>st</sup> day of March, 2017.

*/s/ Matthew R. Bernier*

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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by electronic mail to the following this 1<sup>st</sup> day of March, 2017.

*/s/ Matthew R. Bernier*

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Attorney

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# **Exhibit A**

**CONFIDENTIAL**  
**FILED UNDER SEPARATE COVER**

# **Exhibit B**

**REDACTED**

**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

**In re: Nuclear Cost Recovery  
Clause**

DOCKET NO. 170009-EI  
Submitted for filing: March 1, 2017

**REDACTED**

**DIRECT TESTIMONY OF CHRISTOPHER M. FALLON  
IN SUPPORT OF ACTUAL COSTS**

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

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**III. 2016 LNP WIND-DOWN COSTS.**

**Q. What were the total LNP actual 2016 costs? REDACTED**

A. As can be seen in Appendix D of Exhibit No.\_\_\_\_(TGF-1), total actual LNP costs for 2016, excluding the carrying costs on the unrecovered investment balance, were approximately [REDACTED].

**Q. Please describe the LNP wind-down activities and costs.**

A. DEF’s 2016 LNP wind-down activities involved continued LLE disposition efforts. Specifically, DEF made LLE payments in full settlement of outstanding LLE payments disputes (other than those issues related to the WEC litigation discussed below).

DEF’s LLE disposition objectives in its Disposition Plan are consistent with the 2013 Settlement Agreement. DEF’s objectives are to disposition the LNP LLE in a manner that (i) minimizes the financial costs and risks of the LLE disposition to DEF’s customers; (ii) minimizes other costs to DEF and its customers; and (iii) evaluates the potential future use of the LNP LLE for other AP1000 power plant projects. This includes minimizing LLE evaluation costs and purchase order or contract termination costs, minimizing the risks of financial loss associated with the LNP LLE, and maximizing the LNP LLE disposition cash value.

**Q. Please explain the LLE payments.**

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A. Independent of the WEC litigation claims, DEF and WEC were involved in a dispute over the proper amounts owed by DEF for certain LLE, the Reactor Vessel materials, Steam Generator tubing and balance, and Reactor Coolant Pumps. In settlement of that dispute, DEF agreed to pay WEC [REDACTED], which was reduced by the salvage value of the LLE (approximately [REDACTED]), for a total amount owed of [REDACTED]. In previous testimony I noted that DEF owed up to a capped value of [REDACTED] for this equipment pursuant to the Change Order. Through DEF's LLE Disposition efforts we were able to reduce this value to a net [REDACTED] payment. As part of this agreement, WEC agreed to release any and all remaining claims it may have under the EPC Agreement (other than those involved in the litigation). More information regarding the LLE components included in the settlement is found in Exhibit No. \_\_ (CMF-1).

**Q. To summarize, were all of the wind-down costs that the Company incurred in 2016 for the LNP reasonable and prudent?**

A. The specific costs for the LNP contained in the 2016 Detail schedules, which are attached as exhibits to Mr. Foster's testimony, reflect the reasonable and prudent wind-down costs DEF incurred for LNP work in 2016. DEF took reasonable steps in 2016 to minimize the LNP work and wind-down costs.

**Q. What is the status of DEF's lawsuit with WEC?**

Westinghouse Proprietary and Confidential



**To:** Christopher Fallon  
**From:** Linda Iller  
**Date:** 10/6/2016  
**Subject:** Invoice # 90332051

**Contract No:** 414310  
**Invoice No:** 90332051  
**Invoice Date:** 10/6/2016

**Activity Description**

As agreed between the parties, in accordance with attached spreadsheet and related settlement agreement/releases, final invoice for supplier closeout costs.

This is considered the official transmittal of this invoice. As previously discussed, invoices will only be transmitted electronically.

A handwritten signature in black ink, appearing to read "Linda Iller".

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Approval

This document is the property of and contains Proprietary Information owned by Westinghouse Electric Company LLC. It is transmitted to you in confidence and trust, and you agree to treat this document in strict accordance with the terms and conditions of the agreement under which it was provided to you.

The AP1000 logo is a trademark of Westinghouse Electric Company LLC.  
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**INVOICE**

Original  
Page 1 of 1

**SHIP TO:**

Duke Energy Florida, Inc.  
Attn: Accounts Payable  
410 S. Wilmington St.  
Mail Code PEB 15  
Raleigh, NC 27601

Payment Terms are: As set forth in settlement agreement  
Please Indicate Customer Number and Invoice Number on Remittance

Reference: Sales Order Number 52861

CUSTOMER CONTRACT NO.	WBS	INVOICE DATE	INVOICE NO.
414310	N/A	10/6/2016	90332051

**Duke Energy Levy AP1000 Project**  
CST # = 51

<u>OPI</u>	<u>Description</u>	<u>Amount</u>
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See Attached

See Attached

[REDACTED]

AMOUNT OF THIS INVOICE -----

[REDACTED]

\*\*\*IN REMITTING OR CORRESPONDING, PLEASE SHOW INVOICE NUMBER AND CUSTOMER NUMBER\*\*\*

**REMIT TO:** WESTINGHOUSE ELECTRIC CO., LLC  
P.O. BOX 534774 Atlanta, GA 30353-4774  
As set forth in settlement agreement (FROM RECEIPT DATE)

**TRANSFER TO:** JPMorgan Chase, [REDACTED]

**INQUIRIES TO:** WESTINGHOUSE ELECTRIC CO., LLC  
1000 Westinghouse Drive  
Cranberry Township, PA 16066  
Attn: Linda Iller

REDACTED

DUKE LEVY LONG LEAD EQUIPMENT DISPOSITION				
		Payments to Supplier		Payments from Duke
Doosan	SG Tubing			
		\$	██████████	██████████
			██████████	██████████
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	Subtotal	\$	██████████	\$ ██████████
	Delta			\$ ██████████
	Salvage from Supplier			██████████
Doosan	Reactor Vessel - Salvage			██████████
Curtiss Wright EMD	RCP's - Salvage			██████████
Tension Bolts				██████████
RV Hollow Bars				██████████
	<b>TOTAL DUE WEC</b>			<b>\$ ██████████</b>

**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

**In re: Nuclear Cost Recovery  
Clause**

**DOCKET NO. 170009-EI**

**Submitted for filing:  
March 1, 2017**

**REDACTED**

**DIRECT TESTIMONY OF THOMAS G. FOSTER  
IN SUPPORT OF ACTUAL COSTS**

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

1 **Q. How did actual Generation expenditures for January 2016 through December**  
2 **2016 compare with DEF’s actual/estimated costs for 2016? REDACTED**

3 **A.** Appendix D (Page 2 of 2), Line 4 shows that total Generation project costs were [REDACTED]  
4 [REDACTED], or [REDACTED] higher than estimated. By cost category, major cost  
5 variances between DEF’s projected and actual 2016 LNP Generation project costs  
6 are as follows:

7  
8 **Wind-Down Costs:** There were no major variances from the estimates with respect  
9 to these costs.

10 **REDACTED**

11 **Disposition:** Expenses for Disposition of assets activities were [REDACTED] or [REDACTED]  
12 [REDACTED] higher than estimated, as explained in the testimony of Christopher Fallon.

13  
14 **Q. What was the source of the separation factors used in the 2016 Detail Schedule?**

15 **A.** The jurisdictional separation factors are consistent with Exhibit 1 of the Revised and  
16 Restated Stipulation and Settlement Agreement (“2013 Settlement Agreement”)  
17 approved by the Commission in Order No. PSC-13-0598-FOF-EI in Docket No  
18 130208-EI.

19  
20 **IV. OTHER EXIT/WIND-DOWN COSTS INCURRED IN 2016 FOR THE LEVY**  
21 **NUCLEAR PROJECT.**

22 **Q. How did actual Other Exit/Wind-Down expenditures for January 2016 through**  
23 **December 2016 compare with DEF’s actual/estimated costs for 2016?**

**Docket No. 170009-EI  
Duke Energy Florida  
Exhibit No. \_\_\_\_ (TGF-1)**

**SCHEDULE APPENDIX**

**REDACTED**

**EXHIBIT (TGF-1)**

**DUKE ENERGY FLORIDA, LLC.  
LEVY NUCLEAR UNITS 1 & 2  
COMMISSION SCHEDULES**

**JANUARY 2016 - DECEMBER 2016  
DOCKET NO. 170009-EI**

**DUKE ENERGY FLORIDA**  
**Nuclear Cost Recovery Clause (NCRC) - Levy Nuclear Units 1 & 2**  
**2016 Detail - Calculation of the Revenue Requirements**  
**January 2016 through December 2016**

Witness: T.G. Foster / C. Fallon  
Docket No. 170009-EI  
Duke Energy Florida  
Exhibit: (TGF- 1)

Line	Description	Beginning of Period Amount	Actual January 2016	Actual February 2016	Actual March 2016	Actual April 2016	Actual May 2016	Actual June 2016	Actual July 2016	Actual August 2016	Actual September 2016	Actual October 2016	Actual November 2016	Actual December 2016	Period Total	End of Period Total
1	<b>Uncollected Investment : Generation</b>															
	a Prior Period Construction Balance YE 2015															
	b Wind-Down Costs															
	c Sale or Salvage of Assets															
	d Disposition															
	e Total															
			REDACTED													
2	<b>Adjustments</b>															
	a Non-Cash Accruals (see Line 5c)															
	b Adjusted System Generation (Line 1e + Line 2a)															
	c Retail Jurisdictional Factor : Generation															
	d Retail Uncollected Investment: Generation															
															92.885%	
3	<b>Uncollected Investment : Transmission</b>															
	a Prior Period Construction Balance YE 2015															
	b Wind-Down Costs															
	c Sale or Salvage of Assets															
	d Disposition															
	e Total															
4	<b>Adjustments</b>															
	a Non-Cash Accruals															
	b Adjusted System Transmission (Line 3e + Line 4a)															
	c Retail Jurisdictional Factor : Transmission															
	d Retail Uncollected Investment: Transmission															
															70.203%	
5	<b>Total Uncollected Investment</b>															
	a Total Jurisdictional Uncollected Investment (2d + 4d)	219,750,820	2,070	873	2,782	1,764	2,301	2,289	462	1,898	1,505	1,931	3,093,390	584	3,111,848	222,862,667
	b Retail Land Transferred to Land Held for Future Use	(66,221,330)	0	0	0	0	0	0	0	0	0	0	0	0	0	(66,221,330)
	c LLE Deferred Jurisdictional Balance (\$54M System) (b)	(50,275,957)	0	0	0	0	0	0	0	0	0	0	0	0	0	(50,275,957)
	d Total Jurisdictional Uncollected Investment	103,253,533	2,070	873	2,782	1,764	2,301	2,289	462	1,898	1,505	1,931	3,093,390	584	3,111,848	106,365,381
6	<b>Carrying Cost on Uncollected Investment Balance</b>															
	a Uncollected Investment: Additions for the Period (Beg Balance: 2016 Detail Line 5d.)	103,253,533	2,070	873	2,782	1,764	2,301	2,289	462	1,898	1,505	1,931	3,093,390	584	3,111,848	106,365,381
	b Plant-in-Service	1,010,952	0	0	0	0	0	0	0	0	0	0	0	0	0	1,010,952
	c Period Recovered Wind-down / Exit Costs (2014)	9,816,636	0	0	0	0	0	0	0	0	0	0	0	0	0	9,816,636
	d Period Recovered Wind-down / Exit Costs (2015)	(4,312,069)	0	0	0	0	0	0	0	0	0	0	0	0	0	(4,312,069)
	e Period Recovered Wind-down / Exit Costs (2016)	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
	f Additional Amortization of Uncollected Investment Balance (2014-2015)	(84,653,508)	0	0	0	0	0	0	0	0	0	0	0	0	0	(84,653,508)
	g Prior Period Carrying Charge Unrecovered Balance (a)	(11,552,110)	0	0	0	0	0	0	0	0	0	0	0	0	0	(11,552,110)
	h Prior Period Carrying Charge Recovered	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
	i Over/Under Prior Period			6,298	5,146	7,103	6,138	6,725	6,768	4,988	6,468	6,125	6,600	3,110,365	3,202,678	3,202,678
	j Net Investment	\$532,396	\$534,466	\$539,567	\$546,622	\$552,707	\$559,382	\$566,095	\$571,036	\$577,460	\$583,535	\$590,085	\$3,688,145	\$3,705,703	\$3,735,075	
7	Average Net Investment		\$533,431	\$539,131	\$545,231	\$551,825	\$558,232	\$564,950	\$570,805	\$576,511	\$582,782	\$589,120	\$2,141,450	\$3,705,411		
8	Return on Average Net Investment															
	a Equity Component	0.00392	2,091	2,113	2,137	2,163	2,188	2,215	2,238	2,260	2,285	2,309	8,394	14,525	44,918	
	b Equity Component Grossed Up For Taxes	1.62800	3,404	3,440	3,479	3,521	3,562	3,606	3,643	3,679	3,720	3,759	13,665	23,647	73,127	
	c Debt Component	0.00155	824	833	842	853	862	873	882	891	900	910	3,309	5,725	17,704	
	d Total Return for the Period		4,228	4,273	4,321	4,374	4,424	4,479	4,525	4,570	4,620	4,669	16,974	29,372	90,831	
9	<b>Revenue Requirements for the Period (Line 5e + 6a + 8d)</b>		6,298	5,146	7,103	6,138	6,725	6,768	4,988	6,468	6,125	6,600	3,110,365	29,955	3,202,678	
10	Projected Revenue Requirements for the Period (Order No. PSC-15-0521-FOF-EI)		0	0	0	0	0	0	0	0	0	0	0	0	0	
11	Over/Under Recovery For the Period		6,298	5,146	7,103	6,138	6,725	6,768	4,988	6,468	6,125	6,600	3,110,365	29,955	3,202,678	
12	<b>Other Exit / Wind-Down</b>															
	a Accounting		2,348	2,363	2,476	2,442	2,528	2,584	2,467	2,447	2,627	1,924	2,993	2,103	\$29,302	
	b Corporate Planning		2,277	2,766	4,410	2,707	432	502	848	134	232	336	262	523	15,429	
	c Legal		0	0	0	0	0	0	0	0	0	0	0	0	0	
	d Joint Owner Credit		0	0	0	0	0	0	0	0	0	0	0	0	0	
	e Total Other Exit / Wind-Down Costs		4,625	5,129	6,886	5,149	2,960	3,086	3,315	2,580	2,859	2,260	3,255	2,626	\$44,730	
13	Jurisdictional Factor (A&G)		0.93221	0.93221	0.93221	0.93221	0.93221	0.93221	0.93221	0.93221	0.93221	0.93221	0.93221	0.93221		
14	Jurisdictional Amount		4,311	4,781	6,419	4,800	2,759	2,877	3,090	2,405	2,665	2,107	3,034	2,448	41,698	
15	Prior Period Unrecovered Balance (a)	(42,490)	(42,490)	(42,490)	(42,490)	(42,490)	(42,490)	(42,490)	(42,490)	(42,490)	(42,490)	(42,490)	(42,490)	(42,490)		
16	Prior Period Costs Recovered		0	0	0	0	0	0	0	0	0	0	0	0	0	
17	Prior Month Period (Over)/Under Recovery		0	4,298	4,769	6,408	4,793	2,753	2,871	3,085	2,401	2,661	2,104	3,032		
18	Unamortized Balance	(42,490)	(42,490)	(38,192)	(33,423)	(27,015)	(22,222)	(19,469)	(16,598)	(13,513)	(11,112)	(8,451)	(6,347)	(3,314)		
19	Projected Carrying Costs for the Period															
	a Balance Eligible for Interest		(40,334)	(35,801)	(30,213)	(24,615)	(20,842)	(18,030)	(15,052)	(12,310)	(9,779)	(7,397)	(4,830)	(2,090)		
	b Monthly Commercial Paper Rate		0.03%	0.04%	0.04%	0.03%	0.03%	0.03%	0.04%	0.04%	0.04%	0.04%	0.04%	0.06%		
	c Interest Provision		(13)	(13)	(11)	(7)	(6)	(6)	(5)	(4)	(4)	(3)	(2)	(1)	(76)	
	d Total Costs and Interest (Line 14 + Line 19c)		4,298	4,769	6,408	4,793	2,753	2,871	3,085	2,401	2,661	2,104	3,032	2,447	41,622	
20	Recovered (Order No. PSC-15-0521-FOF-EI)		0	0	0	0	0	0	0	0	0	0	0	0	0	
21	Over/Under Recovery For the Period		4,298	4,769	6,408	4,793	2,753	2,871	3,085	2,401	2,661	2,104	3,032	2,447	41,622	
22	<b>Revenue Requirements for the Period (Line 9 + Line 19d)</b>		10,596	9,915	13,511	10,931	9,478	9,639	8,072	8,869	8,786	8,703	3,113,397	32,402	3,244,300	

(a) See Appendix A for Beginning Balance Support  
(b) This amount represents deferral of \$54M as contemplated in DEF's March 2, 2015 Petition.

**LEVY COUNTY NUCLEAR 1 & 2**  
**Site Selection, Preconstruction Costs, and Carrying Costs on Construction Cost Balance**  
**True-Up Filing: Regulatory Asset Category - Variance in Additions and Expenditures**

**REDACTED**

EXPLANATION: Provide variance explanations comparing the annual system total expenditures shown on 2016 Detail Schedule with the expenditures provided to the Commission on 2016 Estimated/Actual Detail schedule. List the Generation expenses separate from Transmission in the same order appearing on 2016 Detail Schedule.

Appendix D  
 Witness: C. Fallon  
 Duke Energy Florida  
 Exhibit: (TGF - 1)  
 (Page 2 of 2)

COMPANY:  
 Duke Energy - FL

DOCKET NO.:  
 170009-EI

For Year Ended 12/31/2016

Line No.	Major Task & Description for amounts on 2016 Detail Schedule	(A) System Estimated / Actual	(B) System Actual	(C) Variance Amount	(D) Explanation
<u>Generation:</u>					
1	Wind-Down Costs				Minimal variance from projected.
2	Sale or Salvage of Assets				
3	Disposition				Final payment for LLE contract closeout costs, not projected in the 2016 Estimate filed on April 27, 2016.
4	<u>Total Generation Costs</u>				
<u>Transmission:</u>					
1	Wind-Down Costs				
2	Sale or Salvage of Assets				
3	Disposition				
4	<u>Total Transmission Costs</u>				

Note:  
 System Estimated / Actual taken from April 27, 2016 Filing in Docket No. 160009-EI.

**LEVY COUNTY NUCLEAR 1 & 2**  
**Actual Filing: Contracts Executed**

EXPLANATION: Provide a list of contracts executed in excess of \$1 million including, a description of the work, the dollar value and term of the contract, the method of vendor selection, the identity and affiliation of the vendor, and current status of the contract.

COMPANY: Duke Energy Florida

**REDACTED**  
Appendix E  
Witness: C. Fallon  
Docket No. 170009-EI  
Duke Energy Florida  
Exhibit: (TGF - 1)

DOCKET NO.:  
170009-EI

For Year Ended: 12/31/2016

(A)	(B)	(C)	(D)	(E)	(F)	(G)	(H)	(I)	(J)	(K)	
Line No.	Contract No.	Status of Contract	Term of Contract	Original Amount	Actual Expended as of Prior Year End (2015)	Actual Amount Expended in 2016	Estimate of Final Contract Amount	Name of Contractor	Affiliation of Vendor	Method of Selection	Nature and Scope of Work
1	414310	Terminated: January 28, 2014					See Note Line 1:	Westinghouse Electric Co. LLC.	Direct	Sole Source. Award based on vendor constructing the selected reactor technology.	To design, engineer, supply, equip, construct and install a fully operational two unit AP1000 Facility at the Levy Nuclear Plant Site. Final contract amount includes change orders.

Line 1: Costs or credits associated with terminating the EPC contract and related long lead equipment purchase orders are subject to litigation appeal in federal court and cannot be estimated at this time.

# **Exhibit B**

**REDACTED**

(2<sup>nd</sup> copy)

**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

**In re: Nuclear Cost Recovery  
Clause**

DOCKET NO. 170009-EI  
Submitted for filing: March 1, 2017

**REDACTED**

**DIRECT TESTIMONY OF CHRISTOPHER M. FALLON  
IN SUPPORT OF ACTUAL COSTS**

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

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**III. 2016 LNP WIND-DOWN COSTS.**

**Q. What were the total LNP actual 2016 costs? REDACTED**

A. As can be seen in Appendix D of Exhibit No.\_\_\_\_(TGF-1), total actual LNP costs for 2016, excluding the carrying costs on the unrecovered investment balance, were approximately [REDACTED].

**Q. Please describe the LNP wind-down activities and costs.**

A. DEF’s 2016 LNP wind-down activities involved continued LLE disposition efforts. Specifically, DEF made LLE payments in full settlement of outstanding LLE payments disputes (other than those issues related to the WEC litigation discussed below).

DEF’s LLE disposition objectives in its Disposition Plan are consistent with the 2013 Settlement Agreement. DEF’s objectives are to disposition the LNP LLE in a manner that (i) minimizes the financial costs and risks of the LLE disposition to DEF’s customers; (ii) minimizes other costs to DEF and its customers; and (iii) evaluates the potential future use of the LNP LLE for other AP1000 power plant projects. This includes minimizing LLE evaluation costs and purchase order or contract termination costs, minimizing the risks of financial loss associated with the LNP LLE, and maximizing the LNP LLE disposition cash value.

**Q. Please explain the LLE payments.**

2 A. Independent of the WEC litigation claims, DEF and WEC were involved in a  
3 dispute over the proper amounts owed by DEF for certain LLE, the Reactor  
4 Vessel materials, Steam Generator tubing and balance, and Reactor Coolant  
5 Pumps. In settlement of that dispute, DEF agreed to pay WEC [REDACTED], which was  
6 reduced by the salvage value of the LLE (approximately [REDACTED]), for a total  
7 amount owed of [REDACTED]. In previous testimony I noted that DEF owed up to a  
8 capped value of [REDACTED] for this equipment pursuant to the Change Order.  
9 Through DEF's LLE Disposition efforts we were able to reduce this value to a net  
10 [REDACTED] payment. As part of this agreement, WEC agreed to release any and all  
11 remaining claims it may have under the EPC Agreement (other than those  
12 involved in the litigation). More information regarding the LLE components  
13 included in the settlement is found in Exhibit No. \_\_ (CMF-1).

14  
15  
16 **Q. To summarize, were all of the wind-down costs that the Company incurred**  
17 **in 2016 for the LNP reasonable and prudent?**

18 A. The specific costs for the LNP contained in the 2016 Detail schedules, which are  
19 attached as exhibits to Mr. Foster's testimony, reflect the reasonable and prudent  
20 wind-down costs DEF incurred for LNP work in 2016. DEF took reasonable  
21 steps in 2016 to minimize the LNP work and wind-down costs.

22  
23 **Q. What is the status of DEF's lawsuit with WEC?**

Westinghouse Proprietary and Confidential



**To:** Christopher Fallon  
**From:** Linda Iller  
**Date:** 10/6/2016  
**Subject:** Invoice # 90332051

**Contract No:** 414310  
**Invoice No:** 90332051  
**Invoice Date:** 10/6/2016

**Activity Description**

As agreed between the parties, in accordance with attached spreadsheet and related settlement agreement/releases, final invoice for supplier closeout costs.

This is considered the official transmittal of this invoice. As previously discussed, invoices will only be transmitted electronically.

A handwritten signature in black ink, appearing to read "Linda Iller".

---

Approval

This document is the property of and contains Proprietary Information owned by Westinghouse Electric Company LLC. It is transmitted to you in confidence and trust, and you agree to treat this document in strict accordance with the terms and conditions of the agreement under which it was provided to you.

The AP1000 logo is a trademark of Westinghouse Electric Company LLC.

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**INVOICE**

Original  
Page 1 of 1

**SHIP TO:**

Duke Energy Florida, Inc.  
Attn: Accounts Payable  
410 S. Wilmington St.  
Mail Code PEB 15  
Raleigh, NC 27601

Payment Terms are: As set forth in settlement agreement  
Please Indicate Customer Number and Invoice Number on Remittance

Reference: Sales Order Number 52861

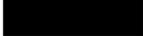
CUSTOMER CONTRACT NO.	WBS	INVOICE DATE	INVOICE NO.
414310	N/A	10/6/2016	90332051

**Duke Energy Levy AP1000 Project**  
CST # = 51

<u>OPI</u>	<u>Description</u>	<u>Amount</u>
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See Attached

See Attached



AMOUNT OF THIS INVOICE -----



\*\*\*IN REMITTING OR CORRESPONDING, PLEASE SHOW INVOICE NUMBER AND CUSTOMER NUMBER\*\*\*

**REMIT TO:** WESTINGHOUSE ELECTRIC CO., LLC  
P.O. BOX 534774 As set forth in settlement agreement (FROM RECEIPT DATE)  
Atlanta, GA 30353-4774

**TRANSFER TO:** JPMorgan Chase,

**INQUIRIES TO:** WESTINGHOUSE ELECTRIC CO., LLC  
1000 Westinghouse Drive  
Cranberry Township, PA 16066  
Attn: Linda Iller



**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

**In re: Nuclear Cost Recovery  
Clause**

**DOCKET NO. 170009-EI**

**Submitted for filing:  
March 1, 2017**

**REDACTED**

**DIRECT TESTIMONY OF THOMAS G. FOSTER  
IN SUPPORT OF ACTUAL COSTS**

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

1 **Q. How did actual Generation expenditures for January 2016 through December**  
2 **2016 compare with DEF’s actual/estimated costs for 2016? REDACTED**

3 **A.** Appendix D (Page 2 of 2), Line 4 shows that total Generation project costs were [REDACTED]  
4 [REDACTED], or [REDACTED] higher than estimated. By cost category, major cost  
5 variances between DEF’s projected and actual 2016 LNP Generation project costs  
6 are as follows:

7  
8 **Wind-Down Costs:** There were no major variances from the estimates with respect  
9 to these costs.

10 **REDACTED**

11 **Disposition:** Expenses for Disposition of assets activities were [REDACTED] or [REDACTED]  
12 [REDACTED] higher than estimated, as explained in the testimony of Christopher Fallon.

13  
14 **Q. What was the source of the separation factors used in the 2016 Detail Schedule?**

15 **A.** The jurisdictional separation factors are consistent with Exhibit 1 of the Revised and  
16 Restated Stipulation and Settlement Agreement (“2013 Settlement Agreement”)  
17 approved by the Commission in Order No. PSC-13-0598-FOF-EI in Docket No  
18 130208-EI.

19  
20 **IV. OTHER EXIT/WIND-DOWN COSTS INCURRED IN 2016 FOR THE LEVY**  
21 **NUCLEAR PROJECT.**

22 **Q. How did actual Other Exit/Wind-Down expenditures for January 2016 through**  
23 **December 2016 compare with DEF’s actual/estimated costs for 2016?**

**Docket No. 170009-EI  
Duke Energy Florida  
Exhibit No. \_\_\_\_ (TGF-1)**

**SCHEDULE APPENDIX**

**REDACTED**

**EXHIBIT (TGF-1)**

**DUKE ENERGY FLORIDA, LLC.  
LEVY NUCLEAR UNITS 1 & 2  
COMMISSION SCHEDULES**

**JANUARY 2016 - DECEMBER 2016  
DOCKET NO. 170009-EI**

**DUKE ENERGY FLORIDA**  
**Nuclear Cost Recovery Clause (NCRC) - Levy Nuclear Units 1 & 2**  
**2016 Detail - Calculation of the Revenue Requirements**  
**January 2016 through December 2016**

Witness: T.G. Foster / C. Fallon  
Docket No. 170009-EI  
Duke Energy Florida  
Exhibit: (TGF- 1)

Line	Description	Beginning of Period Amount	Actual January 2016	Actual February 2016	Actual March 2016	Actual April 2016	Actual May 2016	Actual June 2016	Actual July 2016	Actual August 2016	Actual September 2016	Actual October 2016	Actual November 2016	Actual December 2016	Period Total	End of Period Total
1	<b>Uncollected Investment : Generation</b>															
	a Prior Period Construction Balance YE 2015															
	b Wind-Down Costs															
	c Sale or Salvage of Assets															
	d Disposition															
	e Total															
			REDACTED													
2	<b>Adjustments</b>															
	a Non-Cash Accruals (see Line 5c)															
	b Adjusted System Generation (Line 1e + Line 2a)															
	c Retail Jurisdictional Factor : Generation															
	d Retail Uncollected Investment: Generation															
3	<b>Uncollected Investment : Transmission</b>															
	a Prior Period Construction Balance YE 2015															
	b Wind-Down Costs															
	c Sale or Salvage of Assets															
	d Disposition															
	e Total															
4	<b>Adjustments</b>															
	a Non-Cash Accruals															
	b Adjusted System Transmission (Line 3e + Line 4a)															
	c Retail Jurisdictional Factor : Transmission															
	d Retail Uncollected Investment: Transmission															
5	<b>Total Uncollected Investment</b>															
	a Total Jurisdictional Uncollected Investment (2d + 4d)	219,750,820	2,070	873	2,782	1,764	2,301	2,289	462	1,898	1,505	1,931	3,093,390	584	3,111,848	222,862,667
	b Retail Land Transferred to Land Held for Future Use	(66,221,330)	0	0	0	0	0	0	0	0	0	0	0	0	0	(66,221,330)
	c LLE Deferred Jurisdictional Balance (\$54M System) (b)	(50,275,957)	0	0	0	0	0	0	0	0	0	0	0	0	0	(50,275,957)
	d Total Jurisdictional Uncollected Investment	103,253,533	2,070	873	2,782	1,764	2,301	2,289	462	1,898	1,505	1,931	3,093,390	584	3,111,848	106,365,381
6	<b>Carrying Cost on Uncollected Investment Balance</b>															
	a Uncollected Investment: Additions for the Period (Beg Balance: 2016 Detail Line 5d.)	103,253,533	2,070	873	2,782	1,764	2,301	2,289	462	1,898	1,505	1,931	3,093,390	584	3,111,848	106,365,381
	b Plant-in-Service	1,010,952	0	0	0	0	0	0	0	0	0	0	0	0	0	1,010,952
	c Period Recovered Wind-down / Exit Costs (2014)	9,816,636	0	0	0	0	0	0	0	0	0	0	0	0	0	9,816,636
	d Period Recovered Wind-down / Exit Costs (2015)	(4,312,069)	0	0	0	0	0	0	0	0	0	0	0	0	0	(4,312,069)
	e Period Recovered Wind-down / Exit Costs (2016)	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
	f Additional Amortization of Uncollected Investment Balance (2014-2015)	(84,653,508)	0	0	0	0	0	0	0	0	0	0	0	0	0	(84,653,508)
	g Prior Period Carrying Charge Unrecovered Balance (a)	(11,552,110)	0	0	0	0	0	0	0	0	0	0	0	0	0	(11,552,110)
	h Prior Period Carrying Charge Recovered	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
	i Over/Under Prior Period			6,298	5,146	7,103	6,138	6,725	6,768	4,988	6,468	6,125	6,600	3,110,365	3,202,678	3,202,678
	j Net Investment	\$532,396	\$534,466	\$539,567	\$546,622	\$552,707	\$559,382	\$566,095	\$571,036	\$577,460	\$583,535	\$590,085	\$3,688,145	\$3,705,703	\$3,735,075	
7	Average Net Investment		\$533,431	\$539,131	\$545,231	\$551,825	\$558,232	\$564,950	\$570,805	\$576,511	\$582,782	\$589,120	\$2,141,450	\$3,705,411		
8	Return on Average Net Investment															
	a Equity Component	0.00392	2,091	2,113	2,137	2,163	2,188	2,215	2,238	2,260	2,285	2,309	8,394	14,525	44,918	
	b Equity Component Grossed Up For Taxes	1.62800	3,404	3,440	3,479	3,521	3,562	3,606	3,643	3,679	3,720	3,759	13,665	23,647	73,127	
	c Debt Component	0.00155	824	833	842	853	862	873	882	891	900	910	3,309	5,725	17,704	
	d Total Return for the Period		4,228	4,273	4,321	4,374	4,424	4,479	4,525	4,570	4,620	4,669	16,974	29,372	90,831	
9	<b>Revenue Requirements for the Period (Line 5e + 6a + 8d)</b>		6,298	5,146	7,103	6,138	6,725	6,768	4,988	6,468	6,125	6,600	3,110,365	29,955	3,202,678	
10	Projected Revenue Requirements for the Period (Order No. PSC-15-0521-FOF-EI)		0	0	0	0	0	0	0	0	0	0	0	0	0	
11	Over/Under Recovery For the Period		6,298	5,146	7,103	6,138	6,725	6,768	4,988	6,468	6,125	6,600	3,110,365	29,955	3,202,678	
12	<b>Other Exit / Wind-Down</b>															
	a Accounting		2,348	2,363	2,476	2,442	2,528	2,584	2,467	2,447	2,627	1,924	2,993	2,103	\$29,302	
	b Corporate Planning		2,277	2,766	4,410	2,707	432	502	848	134	232	336	262	523	15,429	
	c Legal		0	0	0	0	0	0	0	0	0	0	0	0	0	
	d Joint Owner Credit		0	0	0	0	0	0	0	0	0	0	0	0	0	
	e Total Other Exit / Wind-Down Costs		4,625	5,129	6,886	5,149	2,960	3,086	3,315	2,580	2,859	2,260	3,255	2,626	\$44,730	
13	Jurisdictional Factor (A&G)		0.93221	0.93221	0.93221	0.93221	0.93221	0.93221	0.93221	0.93221	0.93221	0.93221	0.93221	0.93221		
14	Jurisdictional Amount		4,311	4,781	6,419	4,800	2,759	2,877	3,090	2,405	2,665	2,107	3,034	2,448	41,698	
15	Prior Period Unrecovered Balance (a)	(42,490)	(42,490)	(42,490)	(42,490)	(42,490)	(42,490)	(42,490)	(42,490)	(42,490)	(42,490)	(42,490)	(42,490)	(42,490)		
16	Prior Period Costs Recovered		0	0	0	0	0	0	0	0	0	0	0	0	0	
17	Prior Month Period (Over)/Under Recovery		0	4,298	4,769	6,408	4,793	2,753	2,871	3,085	2,401	2,661	2,104	3,032		
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19	Projected Carrying Costs for the Period															
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	b Monthly Commercial Paper Rate		0.03%	0.04%	0.04%	0.03%	0.03%	0.03%	0.04%	0.04%	0.04%	0.04%	0.04%	0.06%		
	c Interest Provision		(13)	(13)	(11)	(7)	(6)	(6)	(5)	(4)	(4)	(3)	(2)	(1)	(76)	
	d Total Costs and Interest (Line 14 + Line 19c)		4,298	4,769	6,408	4,793	2,753	2,871	3,085	2,401	2,661	2,104	3,032	2,447	41,622	
20	Recovered (Order No. PSC-15-0521-FOF-EI)		0	0	0	0	0	0	0	0	0	0	0	0	0	
21	Over/Under Recovery For the Period		4,298	4,769	6,408	4,793	2,753	2,871	3,085	2,401	2,661	2,104	3,032	2,447	41,622	
22	<b>Revenue Requirements for the Period (Line 9 + Line 19d)</b>		10,596	9,915	13,511	10,931	9,478	9,639	8,072	8,869	8,786	8,703	3,113,397	32,402	3,244,300	

(a) See Appendix A for Beginning Balance Support  
(b) This amount represents deferral of \$54M as contemplated in DEF's March 2, 2015 Petition.

**LEVY COUNTY NUCLEAR 1 & 2**  
**Site Selection, Preconstruction Costs, and Carrying Costs on Construction Cost Balance**  
**True-Up Filing: Regulatory Asset Category - Variance in Additions and Expenditures**

**REDACTED**

EXPLANATION: Provide variance explanations comparing the annual system total expenditures shown on 2016 Detail Schedule with the expenditures provided to the Commission on 2016 Estimated/Actual Detail schedule. List the Generation expenses separate from Transmission in the same order appearing on 2016 Detail Schedule.

Appendix D  
 Witness: C. Fallon  
 Duke Energy Florida  
 Exhibit: (TGF - 1)  
 (Page 2 of 2)

COMPANY:  
 Duke Energy - FL

DOCKET NO.:  
 170009-EI

For Year Ended 12/31/2016

Line No.	Major Task & Description for amounts on 2016 Detail Schedule	(A) System Estimated / Actual	(B) System Actual	(C) Variance Amount	(D) Explanation
<u>Generation:</u>					
1	Wind-Down Costs				Minimal variance from projected.
2	Sale or Salvage of Assets				
3	Disposition				Final payment for LLE contract closeout costs, not projected in the 2016 Estimate filed on April 27, 2016.
4	<u>Total Generation Costs</u>				
<u>Transmission:</u>					
1	Wind-Down Costs				
2	Sale or Salvage of Assets				
3	Disposition				
4	<u>Total Transmission Costs</u>				

Note:  
 System Estimated / Actual taken from April 27, 2016 Filing in Docket No. 160009-EI.

**LEVY COUNTY NUCLEAR 1 & 2**  
**Actual Filing: Contracts Executed**

**REDACTED**

EXPLANATION: Provide a list of contracts executed in excess of \$1 million including, a description of the work, the dollar value and term of the contract, the method of vendor selection, the identity and affiliation of the vendor, and current status of the contract.

COMPANY: Duke Energy Florida

Appendix E  
 Witness: C. Fallon  
 Docket No. 170009-EI  
 Duke Energy Florida  
 Exhibit: (TGF - 1)

DOCKET NO.:  
 170009-EI

For Year Ended: 12/31/2016

(A)	(B)	(C)	(D)	(E)	(F)	(G)	(H)	(I)	(J)	(K)	
Line No.	Contract No.	Status of Contract	Term of Contract	Original Amount	Actual Expended as of Prior Year End (2015)	Actual Amount Expended in 2016	Estimate of Final Contract Amount	Name of Contractor	Affiliation of Vendor	Method of Selection	Nature and Scope of Work
1	414310	Terminated: January 28, 2014					See Note Line 1:	Westinghouse Electric Co. LLC.	Direct	Sole Source. Award based on vendor constructing the selected reactor technology.	To design, engineer, supply, equip, construct and install a fully operational two unit AP1000 Facility at the Levy Nuclear Plant Site. Final contract amount includes change orders.

Line 1: Costs or credits associated with terminating the EPC contract and related long lead equipment purchase orders are subject to litigation appeal in federal court and cannot be estimated at this time.

**DUKE ENERGY FLORIDA – EXHIBIT C - Docket 170009-EI  
Confidentiality Justification**

<b>DOCUMENT</b>	<b>PAGE/LINE/ COLUMN</b>	<b>JUSTIFICATION</b>
<p>Direct Testimony of Christopher M. Fallon in Support of Actual Costs on behalf of Duke Energy Florida, LLC</p>	<p>Page 6, line 6, the dollar value at the end of the sentence; Page 7, lines 5 &amp; 6, the dollar values near the end of each line; Page 7, lines 7 &amp; 8, the dollar values near the beginning of each line; Page 7, line 10, the dollar value at the beginning of the line.</p>	<p>§366.093(3)(d), Fla. Stat. The document portions in question contain confidential contractual information, the disclosure of which would impair DEF’s efforts to contract for goods or services on favorable terms.</p> <p>§366.093(3)(e), Fla. Stat. The document portions in question contain confidential information relating to competitive business interests, the disclosure of which would impair the competitive business of the provider/owner of the information.</p>
<p>Direct Testimony of Christopher M. Fallon in Support of Actual Costs on behalf of Duke Energy Florida, LLC, Exhibit No. ____ (CMF-1)</p>	<p>Page 2, the two values under the Amount column mid-page and the banking information near the bottom of the page.</p> <p>Page 3: all numerical values in the last 3 columns of the table.</p>	<p>§366.093(3)(d), Fla. Stat. The document portions in question contain confidential contractual information, the disclosure of which would impair DEF’s efforts to contract for goods or services on favorable terms.</p> <p>§366.093(3)(e), Fla. Stat. The document portions in question contain confidential information relating to competitive business interests, the disclosure of which would impair the competitive business of the provider/owner of the information.</p>
<p>Direct Testimony of Thomas G. Foster in Support of Actual Costs</p>	<p>Page 8: line 3, last word; line 4, first, third &amp; fourth words; line 11, ninth, tenth &amp; twelfth words; line 12, first word.</p>	<p>§366.093(3)(d), Fla. Stat. The document portions in question contain confidential contractual information, the disclosure of which would impair DEF’s efforts to contract for goods or services on favorable terms.</p> <p>§366.093(3)(e), Fla. Stat. The document portions in question</p>

DOCUMENT	PAGE/LINE/ COLUMN	JUSTIFICATION
		contain confidential information relating to competitive business interests, the disclosure of which would impair the competitive business of the provider/owner of the information.
Direct Testimony of Thomas G. Foster in Support of Actual Costs, Exhibit No. ____ (TGF-1)	<p>Page 4 of 11, All information shown in columns titled Beginning of Period Amount through End of Period Amount, Lines 1a through 1e, 2a, 2b and 2d, 3a through 3e, 4a, 4b, and 4d.</p> <p>Page 10 of 11, all information in columns (A), (B) and (C), Generation Lines 1 through 4, Transmission Lines 1 through 4.</p> <p>Page 11 of 11, all information in the body of table under columns (C) through (F)</p>	<p>§366.093(3)(d), Fla. Stat. The document portions in question contain confidential contractual information, the disclosure of which would impair DEF's efforts to contract for goods or services on favorable terms.</p> <p>§366.093(3)(e), Fla. Stat. The document portions in question contain confidential information relating to competitive business interests, the disclosure of which would impair the competitive business of the provider/owner of the information.</p>

# **Exhibit D**

**AFFIDAVIT OF:**

**CHRISTOPHER M. FALLON**

**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

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In re: Nuclear Cost Recovery Clause

Docket No. 170009-EI  
Submitted for Filing: March 1, 2017

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**AFFIDAVIT OF CHRISTOPHER M. FALLON IN SUPPORT OF DUKE ENERGY  
FLORIDA'S FIRST REQUEST FOR CONFIDENTIAL CLASSIFICATION**

STATE OF NORTH CAROLINA

COUNTY OF MECKLENBURG

BEFORE ME, the undersigned authority duly authorized to administer oaths, personally appeared Christopher M. Fallon, who being first duly sworn, on oath deposes and says that:

1. My name is Christopher M. Fallon. I am employed by Duke Energy Corporation ("Duke Energy") in the capacity of Vice President of Renewable and Commercial portfolio. Until November 2016, I was Duke Energy's Vice President of Nuclear Development, and as such, I was responsible for the Levy Nuclear Power Plant Project ("LNP"). I am over the age of 18 years old and I have been authorized to give this affidavit in the above-styled proceeding on Duke Energy Florida's ("DEF" or the "Company") behalf and in support of DEF's First Request for Confidential Classification Regarding Portions of the Testimonies and Exhibits filed as Part of the Company's March 1, 2017 True-up Filing (the "Request"). The facts attested to in my affidavit are based upon my personal knowledge.

2. DEF is seeking confidential classification of the following materials filed with the Florida Public Service Commission ("FPSC" or the "Commission") in this above referenced docket: (1) portions of the testimony of Mr. Thomas G. Foster and Exhibit No. \_\_ (TGF-1), and (2) portions of my testimony and Exhibit No. \_\_ (CMF-1).

3. Unredacted versions of the testimonies and exhibits at issue are contained in confidential Exhibit A to DEF's Request and the confidential portions thereof are outlined in DEF's Justification Matrix that is attached to DEF's Request as Exhibit C.

4. DEF is requesting confidential classification of portions of Mr. Foster's testimony and exhibits that contain confidential costs numbers and contractual information for the LNP, the disclosure of which would compromise DEF's competitive business interests or violate contractual confidentiality provisions.

5. DEF is also requesting confidential classification of the portions of my testimony that contains confidential data that is competitively sensitive under the Engineering, Procurement, and Construction contract ("EPC Agreement") with Westinghouse Electric Company and Stone & Webster, Inc. (the "Consortium").

6. Additionally, DEF is requesting confidentiality classification of Exhibit CMF-1 because this exhibit contains confidential settlement information between the DEF, the Consortium and its vendors regarding the disposition of long lead time equipment ("LLE") for the LNP. This information would adversely impact DEF's competitive business interests, and ongoing LLE disposition process and negotiations regarding wind down of the EPC Agreement, if disclosed to third parties.

7. Moreover, the Company must be able to assure these vendors that sensitive business information will be kept confidential during negotiations. Indeed, the contract at issue contains confidentiality provisions that prohibit the disclosure of the terms of the contract to third parties. If third parties were made aware of confidential contractual terms that the Company has with other parties, they may offer DEF less competitive terms in future contractual negotiations. Additionally, revealing LLE disposition terms to third parties may compromise DEF's ability to negotiate additional LLE dispositions on a favorable basis. Without DEF's measures to maintain the confidentiality of sensitive terms in contracts between DEF and these nuclear contractors, the Company's efforts to obtain competitive contracts for the LNP would be undermined.

8. As stated above, most of the contracts at issue, and specifically the EPC Agreement, contain confidentiality provisions; therefore, DEF is requesting confidential classification of this information to avoid public disclosure that would violate the confidentiality agreements between DEF and the other parties. DEF has kept confidential and has not publicly disclosed the proprietary contract terms and provisions at issue here.

9. Upon receipt of this confidential information, as with all confidential information, strict procedures are established and followed to maintain the confidentiality of the terms of the documents and information provided therein. Such procedures include, but are not limited to, restricting access to the documents and information to only those persons who require it to assist the Company. At no time since developing or entering the contracts in question has DEF publicly disclosed the contracts' terms; DEF has treated and continues to treat the information contained in the subject contracts as confidential.

10. This concludes my affidavit.

Further affiant sayeth not.

Dated this 22<sup>nd</sup> day of February, 2017.



(Signature)

Christopher M. Fallon  
Former Vice President of Nuclear Development  
Duke Energy Corporation  
526 South Church Street, EC1  
Charlotte, NC 28202

THE FOREGOING INSTRUMENT was sworn to and subscribed before me this 22<sup>nd</sup> day of February, 2017 by Christopher M. Fallon. He is personally known to me, or has produced his \_\_\_\_\_ driver's license, or his \_\_\_\_\_ as identification.

Andrea K. Bizzell

(Signature)

Andrea K. Bizzell

(Printed Name)

NOTARY PUBLIC, STATE OF North Carolina

June 25, 2017

(Commission Expiration Date)

201217900080

(Serial Number, If Any)

(AFFIX NOTARIAL SEAL)

