ATLANTA
MIAMI
ORLANDO
ST. PETERSBURG
TALLAHASSEE
TAMPA
WEST PALM BEACH

CARLTON FIELDS

ATTORNEYS AT LAW

4221 W. Boy Scout Boulevard
Suite 1000
Tampa, Florida 33607-5780
P.O. Box 3239
Tampa, Florida 33601-3239

813.223.7000
813.229.4133 fax
www.carltonfields.com

Blaise N. Huhta
813.229.4328 direct
bhuhta@carltonfields.com

April 30, 2010

Ann Cole, Director
Office of the Commission Clerk
PSC Recording & Filing
2540 Shumard Oak Blvd
Tallahassee, FL 32399

RECEIVED-FPSC
10 APR 30 AM 10: 08
COMMISSION CLERK

Re: In re: Nuclear Cost Recovery Clause
Docket No. 100009

Dear Ms. Cole

Enclosed for filing on behalf of Progress Energy Florida, Inc. are the following:

1. Progress Energy Florida, Inc.'s Petition for Approval of Nuclear Costs to be Recovered During the Period of January – December 2011, including Final True-Up for Prior Recovery Periods, Actual/Estimated True-Up for the Period Ending December 2010 and Projections for the Period Ending December 2011 (original and 7 copies); 03540-10

2. Direct Testimony of Thomas G. Foster in Support of Estimated/Actual, Projection and True-Up to Original Costs on behalf of Progress Energy Florida (original and 15 copies); 03565-10

3. Direct Testimony of Jon Franke (original and 15 copies); 03566-10

4. Direct Testimony of Kenneth Karp in Support of Actual/Estimated and Projected Costs on behalf of Progress Energy Florida (original and 15 copies); 03567-10

5. Direct Testimony of Sue Hardison in Support of Actual /Estimated and Projected Costs on behalf of Progress Energy Florida (original and 15 copies); 03568-10

6. Direct Testimony of John Elnitsky (original and 15 copies); 03569-10

7. Direct Testimony of Patricia D. Galloway (original and 15 copies); 03570-10

8. Direct Testimony of Jeff Lyash (original and 15 copies); 03571-10

COM ____
APA 1
ECR 4
GCL 1
RAD 1
SSC ____
ADM ____
OPC ____
CLK ____

T6764164.1

DOCUMENT NUMBER-DATE
03540 APR 30 ≌
FPSC-COMMISSION CLERK

9. Progress Energy Florida's Fifth Request for Confidential Classification Regarding Testimony and Exhibits; and

10. Notice of Filing Affidavits in Support of Progress Energy Florida, Inc.'s Fifth Request for Confidential Classification.

Sincerely,

Blaise N. Huhta

Enclosures

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Nuclear Power Plant Cost Recovery Clause

Docket No. 100009-EI

Submitted for Filing: April 30, 2010

PROGRESS ENERGY FLORIDA, INC.'S PETITION FOR APPROVAL OF NUCLEAR COSTS TO BE RECOVERED DURING THE PERIOD JANUARY-DECEMBER 2011, INCLUDING FINAL TRUE-UP FOR PRIOR RECOVERY PERIODS, ACTUAL/ESTIMATED TRUE-UP FOR THE PERIOD ENDING DECEMBER 2010, AND PROJECTIONS FOR THE PERIOD ENDING DECEMBER 2011

Pursuant to Section 366.93(3), Florida Statutes, and Rule 25-6.0423, F.A.C., Progress Energy Florida ("PEF" or the "Company") respectfully petitions the Florida Public Service Commission ("PSC" or the "Commission") for the recovery of PEF's costs for the (1) Levy Units 1 and 2 advanced design nuclear power plants (the "Levy Nuclear Project" or "LNP"), and (2) construction of the Crystal River Unit 3 ("CR3") nuclear plant power uprate project ("CR3 Uprate"). Under Section 366.93 and Rule 25-6.0423, PEF is entitled to recover $163.7 million through the Capacity Cost Recovery Clause ("CCRC") during the period January through December 2011 for the LNP and CR3 Uprate.

The total amount of $163.7 million reflects (a) the true-up of prior period costs for the LNP and the CR3 Uprate; (b) the projected pre-construction, recoverable operation and maintenance ("O&M"), and carrying charges on the Deferred Tax Liability ("DTA") costs and associated carrying charges for the construction of the LNP; (c) the amortization of $60 million of the rate management deferred balance of the LNP; and (d) the projected carrying charges on construction costs, recoverable O&M costs, and carrying charges on the DTA for the CR3 Uprate. PEF requests a determination that all of PEF's prior period LNP and CR3 Uprate costs are prudent and all of PEF's estimated/actual 2010 costs and projected 2011 costs for the LNP

DOCUMENT NUMBER-DATE
03540 APR 30 ≌
FPSC-COMMISSION CLERK

and CR3 Uprate are reasonable. PEF supported the prudence of its prior period LNP and CR3 Uprate costs with its petition, testimony, exhibits, and Nuclear Filing Requirements ("NFRs") filed with the Commission on March 1, 2010, which are hereby incorporated by reference. PEF's entitlement to the total amount of $163.7 million for the LNP and CR3 Uprate under Section 366.93 and Rule 25-6.0423 is also explained in more detail below and in the testimony and exhibits of witnesses Jeff Lyash, John Elnitsky, Sue Hardison, Thomas G. Foster, Ken Karp, Dr. Patricia Galloway, and Jon Franke, and the NFR schedules consistent with Rule 25-6.0423, F.A.C filed herewith and incorporated by reference.

I. PRELIMINARY INFORMATION.

1. The Petitioner's name and address are:

Progress Energy Florida, Inc.
299 1st Ave. N.
St. Petersburg, Florida 33701

2. Any pleading, motion, notice, order, or other document required to be served upon PEF or filed by any party to this proceeding should be served upon the following individuals:

R. Alexander Glenn
alex.glenn@pgnmail.com
John Burnett
john.burnett@pgnmail.com
Dianne M. Triplett
Dianne.triplett@pgnmail.com
Progress Energy Service Company, LLC
P.O. Box 14042
St. Petersburg, FL 33733
(727) 820-5587
(727) 820-5519 (fax)

James Michael Walls
mwalls@carltonfields.com
Blaise N. Huhta
bhuhta@carltonfields.com
Carlton Fields
Corporate Center Three at International Plaza
4221 W. Boy Scout Boulevard
P.O. Box 3239
Tampa, Florida 33607-5736
(813) 223-7000
(813) 229-4133 (fax)

II. PRIMARILY AFFECTED UTILITY.

3. PEF is the utility primarily affected by the proposed request for cost recovery. PEF is an investor-owned electric utility, regulated by the Commission pursuant to Chapter 366, Florida Statutes, and is a wholly owned subsidiary of Progress Energy, Inc. The Company's principal place of business is located at 299 1st Ave. N., St. Petersburg, Florida 33701.

4. PEF serves approximately 1.6 million retail customers in Florida. Its service area comprises approximately 20,000 square miles in 35 of the state's 67 counties, encompassing the densely populated areas of Pinellas and western Pasco Counties and the greater Orlando area in Orange, Osceola, and Seminole Counties. PEF supplies electricity at retail to approximately 350 communities and at wholesale to about 21 Florida municipalities, utilities, and power agencies in the State of Florida.

5. In 2006, the Florida Legislature enacted Section 366.93, Florida Statutes, to encourage utility investment in nuclear electric generation through alternative cost recovery mechanisms established by the Commission. The Legislature required the design of cost recovery mechanisms that promoted utility investment in nuclear power plants and allowed for

the recovery in rates of all prudently incurred costs.[1] Pursuant to this Legislative directive, the Commission adopted Rule 25-6.0423, F.A.C. in Order No. PSC-07-0240-FOF-EI, to establish the cost recovery mechanisms required by Section 366.93. PEF seeks cost recovery pursuant to Section 366.93 and Rule 25-6.0423 for the CR3 Uprate Project and the LNP.

III. PEF REQUESTS COST RECOVERY FOR THE CR3 UPRATE PROJECT AS PROVIDED IN SECTION 366.93, FLORIDA STATUTES, AND THE NUCLEAR COST RECOVERY RULE, RULE 25-6.0423, F.A.C.

6. On February 7, 2007, this Commission issued Order No. PSC-07-0119-FOF-EI, granting PEF's petition for determination of need for the expansion of the CR3 nuclear power plant through the CR3 Uprate Project. The CR3 Uprate Project is a multi-phase engineering and construction project to increase CR3's power output by approximately 180 megawatts ("MWs") by the end of the final phase. In 2007, PEF completed the first phase of the project, which added 12 MWs to CR3's output. On November, 26, 2008, the Commission issued Order No. PSC-08-0779-TRF-EI, approving a base rate increase addressing the completion of the first phase of the CR3 Uprate Project.

7. In 2008, PEF petitioned for the approval of cost recovery for the CR3 Uprate Project pursuant to Section 366.93 and Rule 25-6.0423. On November 12, 2008, the Commission issued Order No. PSC-08-0749-FOF-EI and approved as prudent the costs PEF incurred on the CR3 Uprate in 2007, and approved as reasonable PEF's actual/estimated and projected 2008 and 2009 CR3 Uprate costs.

8. On March 1 and May 1, 2009, PEF filed petitions seeking determinations that its 2008 CR3 Uprate Project costs were prudent, and that its 2009 actual/estimated and 2010 projected CR3 Uprate Project costs were reasonable, respectively. PEF performed work for the

[1] The Florida Legislature amended and re-affirmed its support of Section 366.93 twice, in 2007 and 2008, to include integrated gasification combined cycle plants and new, expanded, or relocated transmission lines and facilities necessary for the new power plants, respectively.

second phase of the CR3 Uprate during 2008 and during its 2009 planned refueling outage. PEF also incurred costs necessary for the design and engineering of the third phase of the CR3 Uprate Project for the next planned refueling outage. During the September 2009 hearing, the Commission approved the parties' stipulation to the prudence of the Company's 2008 CR3 Uprate Project costs as reflected in Attachment A to Order No. PSC-09-0783-FOF-EI. The Commission further approved the parties' stipulation to the reasonableness of the Company's 2010 CR3 Uprate projected costs, and approved as reasonable the 2009 CR3 Uprate costs, as reflected in Order No. PSC-09-0783-FOF-EI and Attachment A to Order No. PSC-09-0783-FOF-EI.

9. On March 1, 2010, PEF filed a petition in this docket seeking a determination that its 2009 CR3 Uprate Project costs are prudent. PEF performed work on the second phase – the balance of plant or "BOP" work – of the CR3 Uprate Project in 2009. This work included turbine generator electrical stator rewind, turbine generator exciter replacement, four moisture separator reheater replacements, and two condensate heater replacements.

10. The Company had planned to install a new low pressure turbine at CR3 during the scheduled 2009 steam generator replacement outage at CR3. PEF has deferred the installation of that equipment until the next planned refueling outage to allow the turbine manufacturer to do additional testing and design additional monitoring protocols. PEF is taking this approach to ensure the safety and reliability of the low pressure turbine and to further evaluate insurance options for the turbine.

11. PEF expects to complete remaining BOP work and the third and final phase – the "Extended Power Uprate" or "EPU" – during the next planned refueling outage. The EPU is expected to add approximately 180 MWs to CR3's output. CR3 Uprate Project major activities in 2010 and 2011 will focus on procurement of key EPU equipment, and final design and

engineering work for the EPU. Detailed descriptions of all CR3 Uprate Project expenditures, the estimated and projected costs, the contracts executed, the carrying costs, and the other information required by Rule 25-6.0423(8) F.A.C., are provided in PEF's pre-filed testimony, exhibits, and NFR schedules.

12. PEF has incurred and will continue to incur construction costs and associated carrying charges with respect to the CR3 Uprate Project in 2010 and 2011. PEF requests that the Commission find these CR3 Uprate Project costs reasonable, and allow recovery through the CCRC of the carrying costs associated with the construction costs, carrying costs on the deferred tax balance, and CCRC recoverable O&M expenditures as provided in Section 366.93, Florida Statutes, and consistent with the nuclear cost recovery rule, Rule 25-6.0423, F.A.C. The projected 2011 revenue requirements for the CR3 uprate are $16.0 million. These revenue requirements include projected costs for 2011 of $13.9 million and $2.1 million for the true-up of prior periods. Accordingly, PEF requests that the Commission approve as reasonable PEF's actual/estimated and projected costs for the CR3 Uprate Project for the remainder of 2010 and 2011, and authorize recovery in the CCRC.

IV. PEF REQUESTS COST RECOVERY FOR THE LEVY NUCLEAR PROJECT AS PROVIDED IN SECTION 366.93, FLORIDA STATUTES, AND THE NUCLEAR COST RECOVERY RULE, RULE 25-6.0423, F.A.C.

A. Background: Commission Determinations regarding Levy Nuclear Project.

13. On March 11, 2008, PEF petitioned this Commission for an affirmative determination of need for Levy Units 1 and 2 Nuclear Power Plants and associated transmission facilities (the "LNP"), pursuant to Section 403.519(4), Florida Statutes, and the Commission's Rules. The Commission determined there was a need for Levy Units 1 and 2 taking into account the need for (i) electric system reliability and integrity, (ii) fuel diversity, (iii) base load

generating capacity, and (iv) adequate electricity at a reasonable cost. The Commission further determined Levy Units 1 and 2 were the most cost effective source of power taking into account the need to improve the balance of fuel diversity, reduce Florida's dependence on fuel oil and natural gas, reduce air emission compliance costs, and contribute to the long-term stability and reliability of the electric grid, in accordance with Section 403.519(4)(b)3, Florida Statutes. As a result of these and other determinations, the Commission approved PEF's need petition for the LNP on August 12, 2008. See Order No. PSC-08-0518-FOF-EI.

14. Pursuant to Rule 25-6.0423(4), F.A.C., once a utility obtains an affirmative determination of need for a nuclear power plant covered by Section 366.93, Florida Statutes, the utility may petition the Commission for recovery of the reasonable and prudent costs incurred in connection with the nuclear power plants under the alternative cost recovery mechanisms established by the Commission rule. Pursuant to this rule, PEF petitioned the Commission in 2008 to approve for cost recovery the costs PEF incurred on the LNP. On November 12, 2008, the Commission determined that PEF's actual/estimated and projected 2009 LNP costs were reasonable and approved the parties' stipulation to determine the prudence of actual costs incurred in the 2009 nuclear cost recovery docket.

15. In March 2008, contemporaneously with PEF's request for a need determination for the LNP, PEF executed a letter of intent ("LOI") with Westinghouse Electric Corporation and Shaw, Stone & Webster (the "Consortium") for the LNP. After receipt of the Commission's need determination, PEF executed an Engineering, Procurement, and Construction ("EPC") agreement for the LNP with the Consortium on December 31, 2008.

16. In parallel with the EPC negotiations, PEF also sought the necessary state land use amendments, licenses, and state and federal permits for the LNP. PEF obtained a Levy County Comprehensive Land Use Amendment for the LNP on March 18, 2008. PEF also

obtained approval of a "Special Exception Use Permit" Zoning Application for the LNP on September 3, 2008.

17. On June 2, 2008, PEF submitted its Site Certification Application ("SCA") for the LNP with the Florida Department of Environmental Protection ("DEP"). The DEP issued its SCA report to PEF on January 12, 2009, the SCA hearing on the LNP concluded in March 2009, and the DEP issued its order approving PEF's SCA in May 2009. The Governor and Cabinet sitting as the Siting Board voted to approve the Levy SCA on August 11, 2009. The Siting Board's approval of the LNP SCA signifies state approval of the LNP.

18. PEF submitted the Combined Operating License Application ("COLA") with a Limited Work Authorization ("LWA") for the LNP to the Nuclear Regulatory Commission ("NRC") on July 30, 2008. The NRC completed its sufficiency review and docketed the Levy COLA on October 6, 2008. Subsequently, on February 18, 2009, the NRC issued its LNP COLA review schedule, which did not include the issuance of a LWA prior to issuance of the COL for the LNP.

19. On March 1, 2009, PEF petitioned the Commission to recover PEF's prudently incurred actual 2006 through 2008 LNP costs pursuant to the nuclear cost recovery rule, Rule 25-6.0423, F.A.C, in Docket No. 090009-EI. Subsequently, in the same docket and consistent with the rule, PEF petitioned the Commission to recover PEF's reasonable 2009 actual/estimated LNP costs and projected 2010 LNP costs and presented testimony demonstrating the feasibility of completing the nuclear power plants.

20. Interveners in Docket No. 090009-EI challenged the reasonableness of PEF's estimated 2009 and projected 2010 LNP costs on grounds that (1) PEF should not have executed the EPC agreement when PEF did without the NRC COLA review schedule including the LWA for the LNP in hand, and (2) PEF had not demonstrated the feasibility of completing the nuclear

power plants. The interveners did not challenge the prudence of PEF's actual LNP costs or the prudence of PEF's LNP project management, contracting, and oversight controls.

21. The Commission determined in Order No. PSC-09-0783-FOF-EI that PEF's actions and planning regarding an LWA leading up to the signing of an EPC contract were reasonable and consistent with good business practices. As a result, the Commission found that PEF acted reasonably in executing the LOI and the EPC contract when the Company did. The Commission further determined, based on the Company's testimony and evidence developed in discovery, that completing the LNP was feasible at that time. The Commission also found PEF's LNP project management, contracting, and oversight controls were prudent through 2008. The Commission awarded PEF cost recovery pursuant to the Commission rule, finding that PEF's 2008 and prior year LNP costs were prudent and that PEF's actual/estimated 2009 and projected 2010 LNP costs were reasonable.

B. Background: Circumstances Affecting the LNP.

22. Economic Conditions. As the LNP has progressed, the economies of the United States and the State of Florida have continued to slow. The indications of the national economic decline have been well documented – the housing market collapsed, federal and private mortgage companies failed, some of the nation's largest financial institutions and all three U.S. automobile industry companies neared financial failure, and unemployment rates skyrocketed. The impact in Florida has been particularly severe where recent economic growth was driven by the housing and construction industries. By the third and fourth quarter of 2009, Florida was among the leading states in foreclosures, business failures, and unemployment. Economic conditions, while not as bleak as late 2008 and early to mid 2009, remain weak. Foreclosures and unemployment remain high, and economic activity is only slowly picking up in the country and Florida. The

country and Florida in particular, remains in an economic recession that has been deeper and continued longer than anyone anticipated when the economy started to slow in 2008.

23. Although the recession is a near-term phenomenon and with limited impact on the long-term feasibility of the LNP, it has a pronounced affect on PEF's customers and their ability to pay for new nuclear generation development. Not surprisingly, concerns about customers ability to pay the near term cost of developing new nuclear plants have increased as the recession in Florida has deepened and continued.

24. Throughout the service hearings for PEF's 2009 base rate case proceeding customers objected to any increases to their electric bills, including increases to cover the costs of new nuclear generation development. Indeed, during that proceeding the Commission voiced its own concern over the ability of customers to tolerate the requested rate increases given the current economic climate.

25. In response to these concerns, PEF has taken steps to mitigate the rate impact of the new nuclear development costs on PEF's customers. For example, in 2008, PEF petitioned, and the Commission ultimately approved, the deferral of the collection of $198 million of the approved 2009 LNP costs until 2010. Likewise, in the 2009 nuclear cost recovery docket, PEF proposed to amortize unrecovered site selection and preconstruction LNP costs over a period of five years in order to reduce the near term impact on customer bills. The Commission also approved this proposal with certain modifications.

26. PEF has given significant weight to the economic challenges faced by our customers in determining how to proceed with the LNP. The LNP has great potential to produce long-term benefits over a sixty year operating life. PEF, however, is mindful that the pursuit of those benefits has to be balanced against the limits of its customers to bear the costs of the project in the near term given the unprecedented state of the economy.

27. Load Growth Impacts. PEF was not immune to the effects of the recession. As the recession deepened in late 2008 and 2009, customer growth slowed and actually declined for the first time in PEF's service territory. Customer energy usage also declined dramatically. In fact, by the time of PEF's base rate proceeding in mid 2009, customer energy sales had declined below the sales level at the time of PEF's last base rate proceeding in 2005 even though PEF was serving more customers in 2009 than 2005. Today, total retail customers and sales continue to decline and remain at levels well below customer and sales levels prior to the recession. Customer and sales growth from these recessionary levels are projected to decline this year and then flatten into 2011. Thereafter, PEF projects some growth in customers and sales, but at a relatively slow rate as the economy is expected to recover slowly.

28. The shift in customer and load growth projections is relevant to the LNP in several ways. First, because customer and sales growth is projected to remain flat then grow slowly from the recessionary levels in customers and sales, retail load is also projected to grow slowly over the Company's planning horizon. This is a departure from the Company's experience of consistent load growth and requires reassessment of prior projections of capital investment in generation to satisfy load growth in the future. Second, lower sales revenues means there are fewer funds internally available to the Company to cover costs for additional capital investment, which also necessitates additional re-evaluation of PEF's capital plans. Third, PEF's current projections suggest that, at least in the near term, the Company will have fewer customers and lower kWh sales than previously anticipated, which magnifies the impact of the Company's capital investments on customer bills.

29. Recent Demand Side Management ("DSM") Decision. Pursuant to the Florida Energy Efficiency and Conservation Act ("FEECA"), the Commission adopts goals designed to increase conservation of fossil fuels and reduce and control the growth rate of electric

consumption and weather-sensitive peak demand. These goals are set at least every five years for PEF and the other FEECA utilities. As part of the goal-setting process, the FEECA utilities propose DSM goals and programs, which the Commission reviews and considers in establishing goals. Once the goals are established, the costs of the DSM programs and measures implemented to achieve the goals are recovered by utilities from their customers through the energy conservation cost recovery clause ("ECCR").

30. In Docket No. PSC-09-0855-FOF-EG, the Commission approved new DSM goals for PEF and the other FEECA utilities. PEF, along with the other Florida investor owned utilities ("IOUs"), proposed new DSM goals based on the Participants Test and enhanced Rate Impact Measure Test ("E-RIM"), which included consideration of potential greenhouse gas impacts, as required by recent FEECA amendments. The Commission, however, in its December 30, 2009 Order No. PSC-09-0855-FOF-EG, approved DSM goals for the IOUs, including PEF, based for the first time on the enhanced Total Resource Cost ("E-TRC") test. The E-TRC test differs from the E-RIM test because the E-TRC test does not consider utility lost revenues or customer incentive payments in evaluating the costs and benefits of a DSM program. The result is higher estimated energy savings under the E-TRC test than under the E-RIM test. The Commission adopted the E-TRC test goals for PEF (and the other IOUs) to establish conservation goals that were more robust than the conservation goals each utility proposed.

31. The utilities also proposed DSM goals based on DSM programs that excluded DSM measures that had a payback period of less than two years. Previously, the Commission consistently had accepted this approach as a means of eliminating free riders in developing DSM measures or programs to achieve DSM goals. In Order No. PSC-09-0855-FOF-EG, the Commission included in the IOUs DSM goals the savings estimates for the residential portion of

the top ten measures that were shown to have a payback period of two years or less. This Commission decision also increased the DSM goals beyond the goals proposed by the utilities.

32. Although the precise effect the Commission's adoption of the new DSM goals in Order No. PSC-09-0855-FOF-EG has not been fully assessed, the net effect will likely be to increase the cost of DSM programs to consumers. New or enhanced DSM programs or measures will be required to achieve the new DSM goals at additional cost to the Company and ultimately the customer. Increased incentive payments to customers will also be required under these new DSM goals. Costs for the more robust DSM programs and measures and customer incentive payments necessary to achieve the new DSM goals will be recovered from all customers through the ECCR. As a result, customer bills will be higher. At this time, PEF estimates that the E-TRC plus Top Ten Free Riders goal will increase customer bills, on average, $15-$17 per month per 1,200 kWh over the next ten years.

33. The new DSM goals are the largest DSM goals ever set by the Commission for Florida utilities. Although the ultimate impact on PEF's energy load and energy sales is still uncertain, the new DSM programs and measures will likely result in a decrease in energy use and thus lower the Company's projected load in its forecasts, which is a factor in assessing the LNP. Of more immediate concern, however, is the likelihood that the Commission's more expansive approach to DSM goals and measures will significantly increase customer bills in the near term. That additional burden on customers is another consideration in PEF's evaluation of whether and how to proceed with the LNP, particularly as to the near term cost impacts of the project.

34. Renewable Portfolio Standard Legislation. Although there is no definitive federal or state renewable energy portfolio standard ("RPS"), state and federal policy makers continue to discuss the potential for establishing an RPS. For example, in 2008, the Florida Legislature did amend Section 366.92, Florida Statutes, to require the Commission, in consultation with DEP

and the Florida Energy and Climate Commission, to adopt rules to establish RPS rules for Florida IOUs and submit them to the Florida Legislature for ratification by February 1, 2009. Following several workshops, the Commission Staff recommended a RPS rule to the Commission on December 31, 2008. The Commission voted to approve submittal of the Staff recommended RPS rule to the Florida Legislature, as modified by the Commission, on January 9, 2009. The Commission RPS rule docket was not closed but remained open pending further direction from the Florida Legislature with respect to adoption of the draft RPS rule.

35. The Florida Legislature has not yet acted on the draft Commission RPS rule. It is uncertain when the Florida Legislature will take action with respect to the draft Commission RPS rule, and whether the Florida Legislature will ratify the draft rule, revise the rule, or refer it back to the Commission for further revision. Although the effect of an RPS on the LNP is uncertain, an RPS is not likely to materially affect the need for base load generation such as the LNP. On the other hand, implementation of an RPS may impose significant additional costs on customers, which could further strain PEF's customers' ability to bear the cost of the LNP in the near term.

36. Continued Viability of Nuclear Cost Recovery Statute. As noted above, in 2006, the Florida Legislature enacted Section 366.93, Florida Statutes, in order to encourage utility investment in nuclear electric generation by creating alternative cost recovery mechanisms for nuclear generation development costs. At the time this legislation was adopted, it enjoyed near unanimous support by the Florida Legislature. More recently, however, this same legislation has faced attacks by certain state legislators. In the 2009 Florida Legislative session, one state legislator introduced legislation intended to eviscerate the cost recovery provisions of Section 366.93. This same legislator and another state legislator later in 2009 urged the Commission to deny recovery of the very costs authorized by Section 366.93. Further, one of these same state legislators has written the Commission and requested that the Commission act outside its

statutory authority and award refunds that are not authorized by statute of costs previously incurred and awarded by the Commission pursuant to Section 366.93. Finally, on February 8, 2010, a purported class action lawsuit was filed in state court challenging the constitutionality of Section 366.93. These continued attacks on Section 366.93 come less than three years after the Florida Legislature approved this legislation. Although the Company does not believe these attacks are well founded, the cost recovery provisions of Section 366.93 are absolutely essential to the LNP. Consequently, any effort to undermine the legislation creates additional risk and uncertainty for the project.

37. Access to Capital and Recent Rating Agency and Analyst Statements and Actions. The electric utility industry is a capital intensive industry that depends on ready access to large sums of capital on reasonable terms from the debt and equity capital markets. The capital markets are directly influenced by the Company's rating agency debt ratings and equity analyst recommendations. A constructive regulatory environment and regulatory stability are extremely important factors that rating agencies and analysts consider when making debt ratings and, on the analyst side, when making recommendations whether to invest in Progress Energy or another company. Following the Commission's decision on PEF's rate request in Docket No. 090079-EI, the rating agencies and a number of equity analysts stated their belief that Florida had an unfavorable regulatory and political climate for electric utilities, and issued reviews of the Company that did not encourage (and in fact discouraged) equity investment in the Company. Concerns over the Company's cash flows and its ability to earn its allowed return on equity under difficult near term economic and other conditions have led to credit downgrades by one credit rating agency, negative watch actions by others, and neutral or discouraging equity analyst recommendations.

38. Shortly after the Commission's January 11, 2010 rate case decision, all three credit rating agencies placed PEF on negative credit watch or review for a possible downgrade. Since then, one of the rating agencies has downgraded PEF's credit rating one notch. These rating agency and analyst reviews can adversely affect PEF's future access to capital on favorable terms for PEF's capital investments including the LNP, resulting in increased costs to customers. On January 19, 2010, Moody's Investors Service ("Moody's") placed the long-term debt ratings of Progress Energy and PEF on review for possible downgrade. Moody's also placed PEF's short-term rating for commercial paper on review for a possible downgrade. Moody's review included the financial condition and cash flow coverage metrics of the Company, including among other items, the current schedule and anticipated spending for the LNP. On April 8, 2010, Moody's downgraded PEF one notch stating "[t]he downgrade of the ratings of Progress Energy Florida reflects the recent decline in the political and regulatory environment for investor owned utilities in Florida and continued challenging economic conditions in its service territory, especially related to the Florida housing market." In response to the Moody's downgrade, Oppenheimer Equity Research stated that "[t]he downgrades at the Florida subsidiaries of both companies were prompted by the recent decline in the political, regulatory, and economic environments. The political interference in the recent rate cases has increased the regulatory risk in the state, which was exasperated by the continuing economic downturn in Florida. The Florida specific downgrades should send a clear signal to the Florida Public Service Commission that they are favoring ratepayers at the expense of FP&L and Progress's credit ratings." Similarly, on January 14, 2010, Standard & Poor's ("S&P") placed PEF's long-term ratings on CreditWatch with negative implications. S&P also planned a comprehensive review to determine if the expected improvement in credit protection metrics necessary to support current ratings is still achievable. On March 11, 2010, S&P placed PEF on

negative outlook primarily due to the regulatory environment in Florida. Fitch Ratings placed PEF on negative credit watch even earlier, in late 2009.

39. Equity analysts have had similar reactions to the Commission's January 11, 2010 vote on PEF's rate case. On January 20, 2010, Wells Fargo Securities stated "Comments on FL Regulation. Though we understand the FPSC's desire to minimize ratepayers' burden in light of the recession, we believe the recent outcomes are potentially detrimental to the health of the state's investor owned utilities and economy given the long-term implications (reliability, cost of service, investment, etc.)." Similarly, on January 19, 2010, Macquarie stated that "The regulatory environment in Florida has soured, and we would recommend avoiding regulated electric utilities with FL exposure for the time being." Equity analyst reviews of the Company have not encouraged or they have in fact discouraged equity investment in the Company. Concerns over the Company's cash flows and its ability to earn its allowed return on equity under difficult near term economic and other conditions have led to neutral or discouraging equity analyst recommendations. PEF must take these rating agency and equity analyst reviews and recommendations into account as it considers its future capital investments, including such large capital investments as the LNP.

40. Federal Greenhouse Gas Regulation. Federal energy and environmental policy with respect to climate control and greenhouse gas legislation and regulation remains unsettled. In early 2009, it appeared that comprehensive greenhouse gas legislation would be among the first priorities of the Obama administration, but to date little progress has been made on such legislation. Debate continues over potential climate control legislation, but Congress seems no closer to reaching agreement on legislation that provides certainty with respect to the extent and timing of greenhouse gas emission costs or cap and trade requirements now than it did in 2008.

41. The Environmental Protection Agency ("EPA") issued an advance notice of proposed rulemaking regarding regulation of greenhouse gas emissions under the Clean Air Act in June 2008. This decision responded to an April 2007 United States Supreme Court decision concluding that greenhouse gases met the Clean Air Act definition of a pollutant and, therefore, the EPA had the authority to regulate greenhouse gases subject to the endangerment test that greenhouse gas emissions cause or contribute to air pollution. On December 7, 2009, the EPA Administrator signed final endangerment findings that greenhouse gas emissions in the atmosphere threaten the public health and welfare and that these emissions from new motor vehicles contribute to greenhouse gas pollution which threatens public health and welfare. The EPA decision to regulate greenhouse gas emissions for motor vehicles impacts whether other sources of greenhouse gas emissions need to be regulated as well, including stationary sources of air pollutants like electric power plants. Indeed, the EPA has indicated its intent to delay stationary source greenhouse gas emission regulation until 2011 while moving forward with vehicle greenhouse gas emission regulation.

42. These steps by the EPA indicate the apparent intent to regulate all greenhouse gases under the Clean Air Act. That regulation, however, has not been adopted by the EPA and it is unclear what form that regulation will take and when it will be implemented. It is also unclear whether the EPA will wait for federal legislation before pursuing the further development of greenhouse gas emission regulations. Resolutions have been introduced in both the House and the Senate disapproving the EPA's greenhouse gas endangerment finding and bills were introduced to delay the EPA regulation of greenhouse gas emissions until Congress acts. As a result, while some type of greenhouse gas emission limitations is still expected, when such regulation will take effect, what that legislation or regulation will look like, and what the impact will be on PEF and the LNP is uncertain.

43. Federal Support for New Nuclear Generation. The Energy Policy Act of 2005 ("EPAct") expressed clear support for new nuclear generation development. EPAct considered the diversification of America's energy supply a matter of national security in the event of growing world-wide competition for fossil fuel resources to support the global increase in energy consumption. Among the key strategies for the diversification of America's energy supply under EPAct was encouraging the expansion of nuclear energy in a safe and secure manner. EPAct, accordingly, contained important provisions to encourage the development of new nuclear power generation in the United States. These provisions included Department of Energy ("DOE") standby support agreements, a type of federal risk insurance for utility companies building the next six nuclear power plants. EPAct also authorized DOE to provide loan guarantees and provided production tax credits for the development of new nuclear generation. With EPAct and subsequent federal executive orders and DOE actions – including executive support for Yucca Mountain as the national repository for spent nuclear fuel – the Congress and Executive Branch of the United States Government expressed their consistent view that the development of new nuclear generation plants in the United States was central to meeting the future energy needs of the country.

44. After the 2008 election, neither the new administration nor Congress have provided clear support for new nuclear generation. The Executive Branch advanced an energy policy that emphasized renewable energy development and investment and that largely ignored the continued development of new nuclear generation under EPAct. The DOE loan guarantee program for nuclear development stalled under expanding requirements and conditions for such loan guarantees. Further, the government's most decisive action on nuclear policy was the abandonment of Yucca Mountain as the federal nuclear waste storage option after years of study and construction and billions of dollars invested in the Yucca Mountain federal nuclear waste

repository. A commitment to new nuclear generation was mentioned for the first time in the President's 2010 State of the Union address, followed by an expression of support with the announcement of additional loan guarantees for the Georgia Power Vogtle AP1000 nuclear reactors. No federal legislation or regulation reflecting this renewed commitment, however, has emerged from the administration. The present administration's support for new nuclear generation development remains uncertain and ill defined.

C. Impact of Changes in NRC Review Schedules on the LNP

45. Against the backdrop of rapidly changing circumstances affecting the LNP, the NRC has been making decisions that directly and indirectly impact the LNP schedule. The first of those was the NRC's decision not to issue an LWA for the project until the Combined Operating License ("COL") is issued, which was addressed during the proceedings on PEF's 2009 nuclear cost recovery request. Since that time, as discussed below, additional NRC actions have further impacted the LNP schedule.

46. NRC LWA Determination. A LWA is a limited work authorization issued by the NRC under 10 CFR Parts 50 and 52. If a LWA is requested, it can be reviewed and authorized by the NRC in advance of COL issuance. If the LWA is issued, it allows the utility to do certain site work prior to the issuance of the COL. A LWA was part of the Company's COLA for the LNP. The LWA, together with the other state and federal permits and licenses including the COL for the LNP, was necessary for PEF to achieve the schedule to complete Levy Units 1 and 2 by 2016 and 2017 as originally planned and approved in the Company's need determination for the LNP.

47. On January 23, 2009, the NRC told PEF that it was going to review the LWA on the same schedule as the NRC's review of the COL. The NRC's decision to review the LWA and COL concurrently rather than sequentially meant the construction activities under the LWA

could not take place before issuance of the COL. The NRC's determination with respect to the LWA results in a shift in the LNP schedule of at least 20 months.

48. As a result of the NRC's determination, PEF had to work with the Consortium to assess the impact on the overall schedule in an EPC contract amendment. PEF requested the Consortium to analyze various schedule shift scenarios, starting with a minimum schedule shift resulting from the LWA determination and addressing a potentially longer schedule shift to provide additional float in the schedule for potential, unknown schedule impacts, thereby reducing the need for further amendments to the EPC agreement. The EPC contract suspension of work provisions were included in the contract for such schedule impacts and provide the contractual framework to address them.

49. NRC LNP COLA Status. The NRC LNP COLA review schedule includes the review and issuance of a Final Safety Evaluation Report ("FSER") prior to hearings on the LNP COLA and issuance of the COL for the LNP. On September 16, 2009, PEF received a letter from the NRC indicating that the scheduled date for issuance of the FSER had been moved from May 5, 2011, to July 14, 2011. The NRC confirmed this schedule change in an October 1, 2009, status report.

50. An environmental review resulting in the issuance of a final environmental impact statement ("FEIS") for the LNP is also required for the NRC COLA review and, ultimately, issuance of a COL for the LNP. In the November 1, 2009, status report, the NRC indicated that the schedule for issuance of the FEIS was under review and some delay was expected. In PEF's original NRC COLA review schedule the FEIS was scheduled for issuance about seven months before issuance of the FSER. On January 20, 2010, the NRC issued a revised environmental review schedule, delaying the original date for issuance of the FEIS by ten months. As a result of the slippage in the FSER target and the revised FEIS schedule, the FEIS target date is now

aligned with the FSER target date. Both the FSER and FEIS must be complete before mandatory hearings regarding the LNP COLA can occur.

51. Additionally, on February 6, 2009, three private, anti-nuclear groups the Nuclear Information and Resource Service ("NIRS"), the Ecology Part of Florida ("EPF"), and the Green Party of Florida ("GPF") petitioned to intervene and requested a hearing in PEF's NRC COLA docket. The interveners submitted twelve technical issues called contentions for consideration at the requested hearing by the NRC Atomic Safety and Licensing Board ("ASLB"). PEF responded to this petition and the contentions. On April 6, 2009, the NRC ASLB granted the petition to intervene and request for hearing. Later, on July 8, 2009, the NRC ASLB ruled on the petition and admitted parts of three contentions for hearing. As it currently stands, then, there will be a hearing on PEF's COL. As a result of this required hearing, the inability to commence the hearing until issuance of the FEIS and FSER, and the schedule shift in the issuance of the FEIS, the LNP COL is now expected in late 2012, at the earliest, rather than in late 2011.

52. NRC AP1000 DCD17. The NRC COLA review schedule for the LNP is subject to revision based on the ultimate review and approval of a revision to the AP1000 Design Certification. The AP1000 design is certified by the NRC through Revision 15 to the AP1000 Design Control Document ("DCD"). The Consortium submitted design changes and corrections through revisions 16 and 17 and, as a result, final NRC approval of the current design reflected in the revisions is necessary before the NRC can complete review of the LNP COLA and issue a COL for the LNP. On April 13, 2009, the NRC revised the review schedule for the AP1000 DCD Revision. Based on that revised schedule, the projected date for issuance of the FSER for the AP1000 is December 2010 with final approval scheduled for August 2011.

53. On October 15, 2009, the NRC issued a letter to Westinghouse indicating that modifications to the shield building are needed to complete review of the AP1000 DCD Revision

17. Westinghouse is in the process of responding to the NRC's request. The ultimate impact of this NRC request on the timing of NRC review and approval of Revision 17 is not known with certainty but an impact is expected to the review schedule for Revision 17. With this pending NRC regulatory determination, and the NRC extensions to the LNP COLA review schedule, the shift in the LNP schedule has realistically moved at least a year beyond the minimum shift required by the NRC's LWA determination.

54. Total LNP Project Cost and Timing Impacts. When the NRC deferred issuance of an LWA for the LNP, the LNP schedule shifted a minimum of 20 months. At that time, PEF asked the Consortium to evaluate variations of 24 and 36 month LNP schedule shifts, pursuant to procedures under the EPC agreement. The Consortium's evaluation focused on the impact the assumed schedule shifts would have on work flow, schedules, cash flow and supply chain activities if the LNP moved forward. Before this evaluation was complete and a recommendation reached on a schedule shift, the NRC schedule adjustments for the FSER and FEIS in the LNP COLA review schedule and adjustments for the NRC AP1000 DCD 17 review, realistically extended the LNP schedule further. The Company now faces a schedule shift of at least 36 months to the LNP schedule in order to accommodate existing circumstances.

55. Based on the anticipated schedule shift, PEF did not focus on the Consortium's assessment of a 24 month schedule shift in assessing how to proceed on the LNP. Rather, given the potential length of the schedule shift and the uncertainties attended to the schedule, PEF assumed in service dates in 2021 and 2022 for the Levy units in its base case for the updated cumulative present value revenue requirements ("CPVRR") economic analysis of the LNP. The Company also considered alternative CPVRR analyses that assumed in-service dates of 2019 and 2020, which represents the earliest commercial operation dates given the schedule shift necessitated by the NRC's actions to date. In all cases, the project costs were projected to

escalate per the current terms of the EPC agreement without consideration of possible downward adjustments that may be possible in further negotiations. Accordingly, PEF believes that the LNP cost estimates used as the basis for the updated CPVRR are conservative in that regard.

D. CPVRR Analysis of the LNP.

56. The Commission's nuclear cost recovery rule, Rule 25-6.0423, F.A.C., requires the utility to provide the Commission with a detailed analysis of the feasibility of completing the nuclear power plant. The Rule itself, however, does not describe what this detailed analysis should include, and, in Order No. PSC-09-0783-FOF-EI, the Commission agreed that the Rule does not provide a prescriptive list of requirements for the feasibility analysis.

57. The Company's feasibility analysis in Docket No. 090009-EI addressed the technical and regulatory feasibility of completing the nuclear power plant together with a qualitative analysis of the cost, timing, and risks and benefits associated with completion of the LNP. The Company did not perform an annual, quantitative economic analysis as part of its feasibility determination because the decision to proceed with the LNP cannot be made based on annual fluctuations in fuel prices, environmental costs, and system load.

58. In Order No. PSC-09-0783-FOF-EI in Docket No. 090009-EI, the Commission determined that PEF demonstrated the completion of the Levy nuclear power plants was feasible. The Commission made this determination after reviewing the Company's testimony and the results of a CPVRR that PEF had prepared at the request of the Commission Staff. The CPVRR analysis evaluated the benefits of the LNP compared to an all-natural gas generation base case based on long term projections of cost, fuel prices, load, and environmental emission costs, including projected carbon regulation costs, among other factors. The Commission acknowledged that such estimates are inherently uncertain and that the feasibility of a long-term project like the LNP cannot be determined based solely on such forecasts. The Commission,

nevertheless, required an annual economic analysis as part of the feasibility analysis submitted by the utility. In accordance with the Commission's finding, PEF has prepared an updated CPVRR economic analysis for the LNP consistent with Commission Order No. PSC-09-0783-FOF-EI and has considered the results of that analysis in its decision making process.

59. PEF conducted the CPVRR analysis requested in Commission Order No. PSC-09-0783-FOF-EI as its required economic analysis. This CPVRR analysis includes updated fuel, environmental, and CO2 compliance cost estimates, as well as updated estimates for the Company's cost of capital. As with previous CPVRR analyses for the LNP, the Company included low, mid, and high fuel projections. For the updated CPVRR, however, the Company included two more fuel cases – a low bandwidth fuel case and a high bandwidth fuel case. The CPVRR analysis also includes an updated project cost estimate based on estimated future in-service dates for the Levy nuclear power plants with the anticipated LNP schedule shifts. The CPVRR also incorporates the work done by the Consortium to evaluate the anticipated schedule shifts. The updated CPVRR economic analysis compares the LNP to an all natural gas-fired base load generation scenario using the various fuel forecasts and a range of potential CO2 compliance cost estimates.

60. The updated CPVRR analysis indicates that the LNP is the lowest cost option in a large majority of cases. Even at the 50% ownership level, which produces lower potential economic benefits for the LNP, the CPVRR shows that the LNP is more cost effective in 18 of 25 cases. The LNP does not appear to be cost effective at the 50% ownership level if fuel prices are assumed to be at the low reference fuel level, except in the case that also assumes the highest projected carbon costs. Conversely, at that ownership level, the LNP is cost effective in all cases that assume fuel prices based on the high reference case, including the case that assumes no carbon cost at all.

61. The updated CPVRR produces more positive results for the LNP than the CPVRR presented in the need case even though the estimated cost of the LNP has increased and the in-service dates are assumed to be later. The updated costs of the LNP are based on the Company's current best estimates, but represent the "worst case" cost scenario since they do not contemplate further refinement of the future LNP costs through negotiations with the Consortium over an amendment to the EPC agreement. Two factors offset the projected higher project cost: 1) the more recent fuel forecasts used in the updated CPVRR assume higher long term fuel costs than the forecasts used in the need case; and 2) the updated CPVRR used a weighted cost of capital and discount rate of 6.75% as opposed to the 8.1% weighted cost of capital and discount rate used in the need case CPVRR. The change in the weighted cost of capital and discount rate was driven by updated market forecasts that generally suggest lower costs of debt and the Commission's recent decision in PEF's base rate case in which it lowered the return on equity midpoint for the Company to 10.5%. Although the Company firmly believes that 6.75% was the appropriate weighted cost of capital and discount rate to use in the updated CPVRR, the Company has included a version of the updated CPVRR using a 8.1% weighted cost of capital and discount rate for informational purposes.

62. Although the CPVRR indicates that the LNP is economically feasible, PEF uses that analysis only as a tool to inform its assessment, not as a litmus test. The CPVRR is based upon long term projections of various factors, including fuel costs, carbon cost, construction costs, as well as PEF's estimates of in-service dates. Such projections, and the resulting CPVRR analysis, are subject to the uncertainties and imprecision inherent in all such forecasts. Consequently, PEF does not, and has never, used the CPVRR as the sole determinant of whether to pursue the LNP. At most, the updated CPVRR reconfirms that the most important factors in assessing the economic benefits of the LNP are future carbon and fuel costs. In scenarios that

assume that carbon regulation never occurs or that fuel costs turn out to be much lower than expected, the LNP is not likely to be the lowest cost alternative. On the other hand, in scenarios that combine PEF's base fuel cost assumptions and any significant carbon cost, the LNP will produce billions of dollars of net savings for PEF and its customers.

E. LNP Evaluation and Options.

63. PEF's evaluation of the LNP is a continuous process, covering a range of issues. For ease of discussion, the factors considered can be divided into three categories: 1) technical and regulatory feasibility (i.e., can the project be completed), 2) other qualitative factors affecting the project, (i.e., enterprise risks), and 3) quantitative analysis of the LNP's economic feasibility. In addition, assuming that consideration of these factors indicates that continuing the project is feasible, PEF still must consider whether proceeding with the project is in the best interests of the Company and its customers and, if so, how best to proceed with the project.

64. With regard to technical feasibility of the LNP, completion of the nuclear power plants is technically feasible if the AP1000 design can be successfully installed on the Levy site. The AP1000 reactor design remains a viable nuclear technology. Other utilities, in particular the Southern Company, continue to move forward with licensing nuclear units using the AP1000 design. The Haiyang and Samnen projects in China are under construction using the AP1000 design. The Company has had no indication in the NRC's continuing review of the LNP COLA that the AP1000 nuclear reactor design is not viable or that it cannot be used at the Levy site. In fact, NRC review of the LNP COLA is progressing with the understanding that the AP1000 nuclear reactor design will be used at the Levy site. Accordingly, PEF still believes completion of the Levy nuclear plants is technically feasible.

65. As to legal or regulatory feasibility, the question here is, can all legal and regulatory licenses and permits be obtained for the LNP. To date, PEF has obtained every major

project milestone with the exception of the LWA. PEF selected a site, selected a reactor technology, and obtained a need determination. PEF has also obtained necessary land use amendments and zoning permits for the LNP. PEF has further obtained state approval for the LNP through the SCA process and Siting Board approval of the LNP SCA. There will be a shift in the NRC LNP COLA review schedule that pushes the COL issuance date back to late 2012. There also will be further shifts in the NRC LNP COLA review schedule to accommodate NRC review of the AP1000 DCD revision. But these reviews are proceeding, albeit on a lengthier schedule than originally anticipated, and there is no reason to believe that they will not be completed and the LNP COL issued. PEF is confident that all necessary licenses and permits for the LNP can be obtained.

66. Although the LNP remains feasible from a technical, legal, and regulatory perspective, the Company must also weigh additional factors that influence the decision to proceed with the LNP, including the facts and circumstances impacting the LNP described above. All of these events and circumstances inject additional risks and uncertainties into the project but none of them leads to the conclusion that the LNP cannot and should not be completed.

67. At the outset, it should be noted that the LNP still fulfills all of the policy objectives embodied in 403.519(4), Florida Statutes, and the Commission's need determination for the LNP. The LNP will provide fuel portfolio diversity, reduced reliance on fossil fuels for energy production, carbon free energy generation, and base load capacity with a low cost fuel source. Indeed, new nuclear generation is the only currently viable source of generation capable of providing sufficient base load energy to significantly reduce Florida's reliance on fossil fuels and reduce greenhouse gas emissions.

68. Notwithstanding the magnitude of the potential benefits of the LNP, PEF is cognizant of the changes that have occurred that affect the LNP. For example, economic conditions have deteriorated and any recovery is expected to be slow. The economic conditions, however, do not preclude the Company from completing the project. The economic conditions directly impact customer's ability to incur, and tolerance for, increased rates, including increases to support the LNP. That problem may be exacerbated if customers are required to bear the increased cost of the Commission's more expansive approach to DSM goals and measures or new RPS requirements. These issues, however, are most acute in the near term and may moderate over time as the economy improves. Further, the Company has responded to similar concerns by deferring recovery of costs associated with the LNP, which demonstrates that such issues can be mitigated.

69. The adverse economic conditions and recent DSM goals decision also likely will adversely affect PEF's current and near term energy sales and system load (as well as resulting in higher customer bills). Nevertheless, there is still a future need for base load generation in Florida, even if these circumstances may affect the timing of that need.

70. There have been recent attempts to undermine the nuclear cost recovery statute through the legislature, the courts, and this Commission. If those efforts succeeded, the LNP would be infeasible. Those efforts, however, have not had widespread support and PEF does not expect that the alternative cost recovery provisions that the Florida Legislature put in place to encourage the development of nuclear generation in the state will be overturned just three years after being put in place. Thus, while these efforts create some additional uncertainty for the LNP, they do not affect the feasibility of the project.

71. Recent credit rating agency and equity analyst actions are troubling to the Company and cannot be ignored. The Company will have to take steps to shore up its financial

condition and cash flow coverage metrics, which the Company is in the process of doing, to prevent the credit rating agencies from taking further negative action in addition to the one notch downgrade in the Company's credit rating by one of the credit rating agencies. These steps are necessary to improve the Company's financial condition, assuage investor fears, and continue to attract the debt and equity capital it needs for future capital investments including the LNP. Because PEF has responded reasonably to its current economic, regulatory, and financial circumstances PEF has been able to raise capital in recent markets and there is every indication that if PEF continues to take affirmative steps to improve its financial condition the Company will continue to be able to obtain the capital it needs in the future. That ability, however, will also continue to hinge on investor confidence in PEF.

72. Federal and state energy policy, in particular climate control and greenhouse gas legislation or regulation, remains undefined with respect to what form it will take and when it will be implemented and such legislation or regulation appears unlikely again this year. Nevertheless, there is no discernible movement at the federal or state levels of government to abandon climate control and greenhouse gas regulation altogether. Federal and state government decisions that indicated there would be no greenhouse gas emission regulations on the horizon would be a fundamental change in policy that adversely impacts the feasibility of completing the LNP, but no such fundamental change in federal and state energy policy is evident.

73. Finally, the Company has considered the impact of the anticipated schedule shift necessitated by the NRC's LWA determination and its more recent decisions regarding the schedule for review of the LNP COLA and the AP1000 design. The longer anticipated schedule may increase the overall cost of the LNP, but the cost increase does not preclude completing the project. Indeed, the updated CPVRR suggests that the LNP remains economically beneficial even when the effect of the anticipated schedule shift is considered.

74. In sum, based on the Company's qualitative and quantitative analyses, the Levy nuclear power plants remain feasible. The fact that completion of the Levy nuclear power plants is feasible, however, does not end the Company's evaluation of the decision to proceed with the LNP. The Company still must decide if proceeding with the LNP at this time is in the best interests of the Company and its customers even if completion of the Levy nuclear power plants is feasible.

75. The Company's evaluation of the decision to proceed with the LNP included the Company's qualitative and quantitative feasibility analyses because these analyses bear upon the costs and risks of completing the LNP. The extended LNP in-service dates the Company now expects and resulting project cost estimate increases are significant. Further, as explained above, PEF recognizes that the economic, financial, legislative, and regulatory challenges and uncertainties associated with the LNP have increased. In light of these factors, the Company considered three options: (1) terminating the EPC agreement and cancellation of the LNP; (2) proceeding full speed with the project to achieve the shortest possible project schedule; or (3) amending the EPC agreement to focus LNP work on obtaining the COL and deferring most other LNP work until the COL is obtained.

F. LNP Decision.

76. In considering each of the alternatives PEF has taken into account the benefits of new nuclear generation for the state and the Company's customers, as well as the uncertainties and risks associated with the project. As explained in more detail below, based on those factors, PEF determined that amending the EPC agreement to focus work on obtaining the LNP COL and deferring most other work until the COL is obtained is the most realistic and prudent option at this time.

77. Cancellation of the EPC agreement and the LNP. PEF considered the possibility of terminating the EPC agreement and the LNP, but concluded that such a course would not be in the best interest of the Company or its customers. Cancelling the project would eliminate the possibility of adding new nuclear generation in the reasonably foreseeable future. The time required to renegotiate a new EPC agreement and the impact on the NRC licensing schedules would push the earliest possible in service date for years.

78. Further, cancellation of the LNP would have near term costs to the Company and its customers. PEF would incur cancellation costs under the EPC contract and subcontracts. Some but not all of those costs will be incurred given the decision to defer construction work and focus on obtaining the COL for the project. Given the magnitude of the potential long term benefits that can be realized from new nuclear generation, PEF concluded that outright cancellation of the LNP at this time was not the appropriate course to follow.

79. Proceeding Full Speed with the LNP. PEF considered the option of proceeding as quickly as possible with the completion of the LNP. This approach has some potential benefits. First, it provides the shortest overall schedule, which could result in a lower overall project cost by reducing the accumulation of carrying costs and price escalation. Also, a more aggressive project schedule may allow PEF and its customers to realize the benefits of new nuclear generation more quickly. Those benefits, however, are not guaranteed. As the current schedule shifts caused by NRC actions demonstrate, the LNP schedule is being driven largely by regulatory decisions beyond the Company's control. Consequently, it is not clear that the Company could advance the project work simply by accelerating capital investment in the project. Also, while investing near term capital in the LNP as originally planned provides the possibility of the earliest in-service date of all the options considered, that investment would not materially advance the in-service dates for the Levy nuclear units from the in-service dates the

Company estimates it will achieve if it defers significant capital investment in the LNP until after the COL is obtained. At best, PEF might be able to achieve in service dates for the Levy units in 2019 and 2020 under a best case scenario whereas in service dates of 2021 and 2022 are feasible even if most capital investment is deferred until after receipt of the COL.

80. Further, additional, near-term capital investment in the project, regardless of the timing of federal regulatory decisions affecting the LNP COL issuance date, increases the Company's capital investment exposure in the event further unforeseen shifts in the LNP in-service dates or other significant adverse events occur prior to issuance of the LNP COL. The full speed approach would require PEF to spend over a billion dollars more during the next three years than it would if it deferred capital investment in the LNP and focused primarily on obtaining the COL. From the customer's perspective, this more aggressive approach would result in significant increases to monthly bills in 2011 and 2012.

81. PEF has concluded that the limited and uncertain benefits of accelerating the in-service dates for the LNP is outweighed by disadvantages resulting from greater near-term capital investment in the LNP required by the "full speed" approach. This is particularly true given the economic circumstances facing the Company and its customers, the potential for other incremental costs that may have to be incurred for other programs such as DSM, and the various uncertainties that have arisen that impact the LNP and its schedule. Accordingly, PEF has determined that the full speed approach to the LNP is not the most prudent way to proceed at this time.

82. Continue the LNP and Focus Primarily on the COLA. The Company has decided that focusing on obtaining the COL, and deferring most other work, is the best and most realistic option for proceeding with development of the LNP. This near-term more limited work scope option, in management's judgment, is the option that is in the best interests of PEF's customers

and the Company at this time considering the timing and costs of the project and weighing all costs and benefits of the LNP to the Company and its customers. The Company has entered into an amendment to the EPC agreement to implement its decision.

83. The near-term focus on obtaining the COL benefits the Company and its customers. This approach defers significant capital investment by the Company in the project until after the COL is obtained. This capital investment deferral allows additional time for economic conditions to improve before significant capital investments must be made. Improving economic conditions will likely improve sales revenues and assist in improving the Company's current financial condition. Deferring additional near-term capital investments in the LNP allows the Company to take further steps to improve its financial condition with respect to the ratings agencies and equity investors before going to the capital markets for the necessary capital to make significant capital investments in the LNP. Allowing additional time for the Company to improve its financial position will benefit the Company and customers by providing the opportunity to lower the cost of future additional capital investment from the capital markets.

84. Deferring near-term significant capital expenditures also reduces the near-term project costs to customers. This option, therefore, allows customers additional time to recover from the current recessionary economic circumstances before significant LNP costs are incurred. It also reduces the LNP costs customers have to pay during the deferred recovery period in addition to the prior LNP costs that were already deferred. Finally, this option will also reduce LNP costs included on customer bills at a time when customers will be facing higher bills to recover the costs of enhanced DSM programs and measures and DSM incentives to meet the enhanced DSM goals set by the Commission.

85. Focusing on COL receipt while slowing near-term capital spending also allows additional time for a more definite federal and state energy policy to emerge. PEF still expects

some form of greenhouse gas regulation to be implemented, but the timing, scope, and impact of that regulation is less certain now than it was when the Company began the LNP. The Company's CPVRR analysis shows how sensitive the economics of the LNP are to the cost of carbon regulation. Consequently, PEF believes it is prudent to defer capital investment on the LNP until the future of such regulation is clearer.

86. While the Company's approach to the LNP helps mitigate near term cost impacts and emerging uncertainty, it also preserves the nuclear generation option for PEF in Florida. Termination of the EPC agreement and cancellation of the project will end the LNP and likely will end the development of new nuclear generation for the Company for the foreseeable horizon. The Consortium will invest its resources in those utilities actively pursuing development of the AP1000 in the United States and around the world. If PEF terminates the EPC agreement and cancels the project, and later wants to initiate another nuclear project at the Levy site with the Consortium or with another vendor, PEF will fall behind all other utilities with active nuclear projects in obtaining a commitment of resources from vendors and suppliers. Likewise, the NRC's limited resources will be committed to review of COLAs or the engineering and construction of active nuclear projects. Priority will be provided the active nuclear projects by the NRC. The NRC's limited resources will not be applied to newly initiated or renewed nuclear projects ahead of the nuclear projects actively under development or construction. As a result, termination of the EPC agreement and cancellation of the LNP will likely end the Company's ability to develop new nuclear generation in Florida for the foreseeable horizon.

87. Maintaining the Company's nuclear generation option in Florida preserves the long term benefits of nuclear generation for the Company and its customers. These long-term benefits are fuel portfolio diversity, reduced reliance on fossil fuels for energy production,

carbon free energy generation, and base load capacity with a relatively low cost fuel source. These are the same benefits that the Florida Legislature recognized in the 2006 legislation revising the need determination requirements for nuclear power plants and establishing alternative cost recovery mechanisms to encourage utility investment in nuclear generation in Florida. These are also the same benefits the Commission recognized in granting the need determination for the LNP.

88. There are costs to implementation of the COLA focus approach to the LNP. There will be administrative costs to implement the decision under the EPC agreement's terms and conditions included in the contract for such circumstances, costs to wind-down certain elements of the project, and costs to suspend or cancel purchase orders as may reasonably be required. Those costs, however, would be incurred if the EPC was terminated and the LNP was abandoned. Moreover, termination of the EPC agreement and cancellation of the project would carry additional opportunity costs because the benefit of the work already completed on the LNP, may be lost.

89. The Company believes the incremental costs of the COLA focus approach are worth incurring to preserve the nuclear generation option for PEF in Florida with the LNP. This is a long term project that will provide PEF and its customers with base load capacity and energy generation over a period of sixty plus years after the LNP is constructed. Over its life, the LNP can provide the benefits of new nuclear generation recognized by the Florida Legislature in the 2006 legislation and this Commission in the Company's need determination order. Accordingly, in the Company's reasonable management judgment, new nuclear generation is the appropriate, long-term future base load generation for the Company and its customers.

90. For all the reasons expressed above and in more detail in PEF's testimony, PEF has reasonably exercised its management judgment and suspended all LNP work except work

necessary to obtain key federal permits, in particular, the COL for the LNP. Simply put, the COLA focus option is the right decision: it defers near-term LNP costs to customers in excess of one billion dollars to the period after the LNP COL is obtained while preserving the long-term benefits of fuel diverse, carbon-free, base load nuclear generation for customers.

G. Conclusion.

91. PEF's petition for cost recovery for the LNP reflects the Company's management decision to focus LNP work on obtaining the COL from the NRC for the LNP and defer most other LNP work until the COL is obtained. As explained in more detail above and in the testimony of PEF's witnesses, the decision to focus LNP work on the COL issuance is a reasonable exercise of the Company's management judgment, given the existing schedule shift, and other events and conditions beyond the Company's control that increase the timing, costs, and risks of the project to the Company. This is a reasonable and prudent Company decision because the LNP continues to be the best long term base load generation option for the Company and its customers.

92. As a result, PEF's actual/estimated 2010 and projected 2011 LNP costs are based on the Company's COLA focus decision. This decision reduces the near term LNP costs prior to obtaining the COL by over a billion dollars while preserving the LNP and, therefore, preserving the long term benefits that nuclear generation provides PEF and its customers. Accordingly, PEF requests that, pursuant to Section 366.93, Florida Statutes and Rule 25-6.0423, F.A.C., the Commission determine that PEF's actual-estimated 2010 and projected 2011 LNP costs are reasonable, and approve the collection of the revenue requirements associated with these costs in the CCRC.

93. The projected 2011 revenue requirements for the LNP project are $147.7 million. These revenues include projected costs for 2011 of $75.3, the amortization of $60.0 million in

2011 of the $273 million regulatory asset associated with the rate management plan established by the Commission in the 2009 proceeding, and a true-up for prior period costs of $12.3 million. Detailed descriptions of these expenditures, the estimated and projected costs, the contracts executed, the carrying costs, and the other information required by Rule 25-6.0423(8) F.A.C., are provided in PEF's pre-filed testimony, exhibits, and NFR schedules, which are hereby incorporated by reference.

V. DISPUTED ISSUES OF MATERIAL FACT.

94. PEF is not aware at this time that there will be any disputed issues of material fact in this proceeding. Through its testimony and exhibits, incorporated herein by reference, PEF has demonstrated the prudence of its prior period costs and the reasonableness of its 2010 and 2011 costs associated with the LNP and the CR3 Uprate. PEF has also demonstrated through its testimony and exhibits why the recovery PEF requests is appropriate and warranted under Section 366.93, Florida Statutes, and Rule 25-6.0423, F.A.C.

VI. CONCLUSION.

WHEREFORE, for all the reasons provided in this Petition, as developed more fully in PEF's testimony and exhibits, PEF requests that the Commission find that: (1) PEF is entitled to recover $163.7 million through the CCRC during the period January through December 2011, which amount reflects (a) the true-up of prior period costs for the LNP and the CR3 Uprate, (b) the projected pre-construction, recoverable O&M and carrying charges on the DTA costs and associated carrying charges for the construction of LNP, (c) the amortization of $60 million of the rate management deferred balance of the LNP, and (d) the projected carrying charges on construction costs, recoverable O&M costs, and carrying charges on the DTA for the construction of the CR3 Uprate; and (2) all of PEF's prior period LNP and CR3 Uprate costs are

prudent and all of PEF's estimated/actual 2010 costs and projected 2011 costs for the LNP and CR3 Uprate are reasonable, as provided in Section 366.93, Florida Statutes, and consistent with the Rule 25-6.0423, F.A.C.

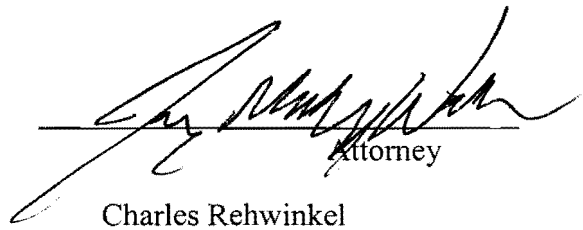
Respectfully submitted this 30th day of April, 2010.

James Michael Walls
Florida Bar No. 0706242
Blaise N. Huhta
Florida Bar No. 0027942
Matthew R. Bernier
Florida Bar No. 0059886
CARLTON FIELDS, P.A.
Post Office Box 3239
Tampa, FL 33601-3239
Telephone: (813) 223-7000
Facsimile: (813) 229-4133

R. Alexander Glenn
General Counsel
John Burnett
Associate General Counsel
Dianne M. Triplett
Associate General Counsel
PROGRESS ENERGY SERVICE COMPANY, LLC
Post Office Box 14042
St. Petersburg, FL 33733-4042
Telephone: (727) 820-5587
Facsimile: (727) 820-5519

CERTIFICATE OF SERVICE

I HEREBY CERTIFY a true and correct copy of the foregoing has been furnished to counsel and parties of record as indicated below via electronic and U.S. Mail this 30th day of April, 2010.



Attorney

Anna Williams
Lisa Bennett
Keino Young
Staff Attorney
Florida Public Service Commission
2540 Shumard Oak Blvd
Tallahassee 32399
Phone: (850) 413-6218
Facsimile: (850) 413-6184
Email: anwillia@psc.state.fl.us
lbennett@psc.state.fl.us
kyoung@psc.state.fl.us

Charles Rehwinkel
Associate Counsel
Office of Public Counsel
c/o The Florida Legislature
111 West Madison Street
Room 812
Tallahassee, FL 32399-1400
Phone: (850) 488-9330
Email: rehwinkel.charles@leg.state.fl.us

Vicki G. Kaufman
Jon C. Moyle, Jr.
Keefe Law Firm
118 North Gadsden Street
Tallahassee, FL 32301
Phone: (850) 681-3828
Fax: (850) 681-8788
Email: vkaufman@kagmlaw.com
jmoyle@kagmlaw.com

Bryan S. Anderson
Jessica Cano
Florida Power & Light
700 Universe Boulevard
Juno Beach, FL 33408-0420
Phone: (561) 691-7101
Facsimile: (561) 691-7135
Email: bryan.anderson@fpl.com
Jessica.cano@fpl.com

John W. McWhirter
McWhirter Law Firm
400 North Tampa Street, Ste. 2450
Tampa, FL 33602
Phone: (813) 224-0866
Facsimile: (813) 221-1854
Email: jmcwhirter@mac-law.com

James W. Brew
Brickfield Burchette Ritts & Stone, PC
1025 Thomas Jefferson St NW
8th FL West Tower
Washington, DC 20007-5201
Phone: (202) 342-0800
Fax: (202) 342-0807
Email: jbrew@bbrslaw.com

Mr. Paul Lewis, Jr.
Progress Energy Florida, Inc.
106 East College Avenue, Ste. 800
Tallahassee, FL 32301-7740
Phone: (850) 222-8738
Facsimile: (850) 222-9768
Email: paul.lewisjr@pgnmail.com

Captain Shayla L. McNeill
Air Force Legal Operations Agency (AFLOA)
Utility Litigation Field Support Center (ULFSC)
139 Barnes Drive, Ste. 1
Tyndall AFB, FL 32403-5319
Phone: (850) 283-6663
Facsimile: (850) 283-6219
Email: shayla.mcneill@tyndall.af.mil

Randy B. Miller
White Springs Agricultural Chemicals, Inc.
PO Box 300
White Springs, FL 32096
Email: RMiller@pscphosphate.com