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**LEVY NUCLEAR PLANT, UNITS 1 AND 2
DOCKET NOS. 52-029 AND 52-030
RESPONSE TO NRC RAI LETTER 123 – RELATED TO STANDARD REVIEW PLAN
SECTION 1.5, OTHER REGULATORY CONSIDERATIONS, FOR THE LEVY NUCLEAR
PLANT, UNITS 1 AND 2, COMBINED LICENSE APPLICATION**

References: Letter from Donald Habib (NRC) to Christopher M. Fallon (DEF), dated October 17, 2014, "Request for Additional Information Letter No. 123 Related to Standard Review Plan Section 1.5, Other Regulatory Considerations, for the Levy Nuclear Plant, Units 1 and 2 Combined License Application."

Ladies and Gentlemen:

Duke Energy Florida, Inc. (DEF) hereby submits a response to the Nuclear Regulatory Commission's (NRC) request for additional information (RAI) cited in the References section. The enclosure to this letter contains DEF's response.

If you have any further questions, or need additional information, please contact Bob Kitchen at (704) 382-4046, or me at (704) 382-9248.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on November 17, 2014

Sincerely,

Christopher M. Fallon
Vice President
Nuclear Development

DO94
MRO

Enclosure:

Levy Nuclear Plant Units 1 and 2 (LNP) Response to NRC Request for Additional Information Letter No. 123 Related to SRP Section 1.5 for the Levy Nuclear Plant, Units 1 and 2 Combined License Application.

cc: U.S. NRC Region II, Regional Administrator
Mr. Donald Habib, U.S. NRC Project Manager

**Levy Nuclear Plant Units 1 and 2 (LNP)
Response to NRC Request for Additional Information Letter No. 123
Related to SRP Section 1.5 for the Levy Nuclear Plant, Units 1 and 2
Combined License Application, Dated 10/17/2014**

<u>NRC RAI #</u>	<u>Duke Energy RAI #</u>	<u>Duke Energy Response</u>
01.05-04	L- 1111	Response enclosed –See the following pages

RAI Response

NRC Letter No.: LNP-RAI-LTR-123

NRC Letter Date: October 17, 2014

NRC Review of Final Safety Analysis Report

Text of NRC RAI:

QUESTIONS

01.05-4

Title 10 of the Code of Federal Regulations, Part 52, Appendix D, Section IV.A.3, indicates the applicant must "Include, in the plant-specific DCD, the proprietary information and safeguards information referenced in the AP1000 DCD."

Section 1.1 of the FSAR, STD SUP 1.1-1, states:

Appropriate agreements are in place to provide for the licensee's rights to possession (including constructive possession) and use of the withheld sensitive unclassified non-safeguards information (including proprietary information) and safeguards information referenced in the AP1000 DCD for the life of the project.

In a June 3, 2014, letter to NRC, Duke Energy Florida (DEF) stated that it terminated the engineering, procurement, and construction (EPC) contract for the proposed Levy Nuclear Plant Units 1 and 2 with a consortium comprised of Westinghouse and Stone & Webster, Inc. (now doing business as Chicago Bridge and Iron (CB&I) (ML14155A419). DEF subsequently revised the FSAR to remove reference to the Westinghouse/CB&I Consortium and the associated EPC agreement.

Subsequent to the cancellation of the EPC contract, describe how DEF is meeting the FSAR statements regarding licensee's possession of information, including sensitive unclassified nonsafeguards information and safeguards information referenced in the AP1000 DCD, in order to incorporate by reference the AP1000 DCD into the LNP COL application and plant specific DCD.

Duke RAI ID #: L-1111

DEF Response to NRC RAI:

DEF and Westinghouse are currently negotiating a Memorandum of Understanding (MOU) for COLA support that will specifically grant access to DEF for possession of information, including sensitive unclassified nonsafeguards information and safeguards information referenced in the AP1000 DCD. Until the MOU is finalized, Westinghouse has confirmed in writing that it grants to DEF a nontransferable, revocable, royalty-free and nonexclusive license to use and copy Westinghouse's Proprietary Data (as defined in the EPC Agreement) for purposes of the Levy COLA and subject to the restrictions on Proprietary Data set forth in Section 19.1 of the EPC Agreement, which is a surviving provision following termination of the EPC agreement.

In addition, DEF is a member of APOG, LLC (APOG). A contract between APOG and Westinghouse is in place stipulating "Subject to the terms and conditions herein and except with respect to CAP Information, Westinghouse hereby grants each Non-EPC APOG Member a non-exclusive, non-sublicensable, fully paid, indefinite license to use, copy and collaborate with APOG Members to use, the Deliverables for activities directly related to the regulatory licensing of the AP1000 nuclear power plant(s) for which it has submitted a Combined Operating License (COL) application(s) to the U.S. NRC and to maintain their respective COL(s)." Deliverables include Design Change Proposals, License Change Packages, ISG-11 Evaluations and Topical Reports necessary to support Departures or License Amendment Requests. The contract also stipulates "With respect to CAP Information, the APOG Members agree that CAP Information provided or made available to the APOG Members under this Agreement shall be used by an APOG Member solely for the purpose of supporting Licensing Change Packages ("LCPs") and ISG-11 evaluations of its own AP1000 power plant or its AP1000 COL application, respectively, and for no other purpose."

Therefore, DEF has the requisite access to sensitive unclassified nonsafeguards information and safeguards information referenced in the AP1000 DCD to support the Levy project.

Associated LNP COL Application Revisions:

None

Attachments/Enclosures:

None