

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition to determine need for Seminole combined cycle facility, by Seminole Electric Cooperative, Inc.

DOCKET NO. 20170266-EC

In re: Joint petition for determination of need for Shady Hills combined cycle facility in Pasco County, by Seminole Electric Cooperative, Inc. and Shady Hills Energy Center, LLC.

DOCKET NO. 20170267-EC
ORDER NO. PSC-2018-0179-CFO-EC
ISSUED: April 11, 2018

ORDER GRANTING SEMINOLE ELECTRIC COOPERATIVE, INC.'S
REQUESTS FOR CONFIDENTIAL CLASSIFICATION
(DOCUMENT NOS. 01988-2018, 02013-2018, 01826-2018, 02190-2018,
02241-2018, 02223-2018, 02379-2018, 02381-2018, 02358-2018, 02466-2018,
02468-2018, 02471-2018, 02397-2018, 02377-2018, 02732-2018,
02469-2018, 02470-2018, 02476-2018)

Pursuant to Section 366.096, Florida Statutes (F.S.), and Rule 25-22.006, Florida Administrative Code (F.A.C.), Seminole Electric Cooperative, Inc. (Seminole) filed several requests for confidential classification in Docket Nos. 20170266-EC and 20170267-EC. On February 28, 2018, Seminole filed a request for confidential classification of certain information provided in response to Staff's First Set of Interrogatories (Nos. 6, 18, and 33) and Staff's First Request for Production of Documents (Nos. 6, 11, 12, and 13). The confidential responses were filed in Docket Nos. 20170266-EC and 20170267-EC as Document No. 01988-2018.

On March 1, 2018, Seminole filed a request for confidential classification of certain information provided in response to Staff's Second Set of Interrogatories (Nos. 35 and 36). The confidential responses were filed in Docket Nos. 20170266-EC and 20170267-EC as Document Nos. 02013-2018 and 01826-2018. On March 8, 2018, Seminole filed a request for confidential classification of certain information provided in response to Staff's Fifth Set of Interrogatories (No. 67). The confidential response was filed in Docket Nos. 20170266-EC and 20170267-EC as Document No. 02190-2018. On March 12, 2018, Seminole filed a request for confidential classification of certain information provided in response to Staff's Third Set of Interrogatories (No. 58). The confidential response was filed in Docket Nos. 20170266-EC and 20170267-EC as Document Nos. 02241-2018 and 02223-2018.

On March 16, 2018 Seminole filed an additional request for confidential classification of certain information provided in response to Staff's First Request for Production of Documents (Nos. 11 and 13) and Staff's Third Request for Production of Documents (No. 21). The confidential responses were filed in Docket Nos. 20170266-EC and 20170267-EC as Document No. 02379-2018. Also on March 16, 2018, Seminole filed a request for confidential classification

of portions of the transcript and exhibits for the deposition of Michael Ward, taken on March 9, 2018. The non-redacted deposition transcript and exhibits were filed in Docket Nos. 20170266-EC and 20170267-EC as Document Nos. 02381-2018, 02358-2018, 02466-2018, 02468-2018, and 02471-2018.

On March 19, 2018, Seminole filed a request for confidential classification of certain information provided in response to Quantum's First Set of Interrogatories (No. 2) and Quantum's First Request for Production of Documents (No. 2). The confidential responses were filed in Docket Nos. 20170266-EC and 20170267-EC as Document Nos. 02397-2018 and 02377-2018. On April 4, 2018, Seminole filed a request for confidential classification of certain information contained in Hearing Exhibit Nos. 102, 103, and 116.¹ The exhibits were filed in Docket Nos. 20170266-EC and 20170267-EC as Document Nos. 02732-2018, 02469-2018, 02470-2018, and 02476-2018.

Requests for Confidential Classification

Seminole contends that some of the information provided in the above-referenced documents constitutes proprietary and confidential business information entitled to protection under Section 366.093, F.S., and Rule 25-22.006, F.A.C. Seminole asserts that this information is intended to be and is treated by Seminole as private and has not been publicly disclosed.²

Seminole contends that the information identified as confidential in Document Nos. 01988-2018, 02013-2018, 01826-2018, 02190-2018, 02241-2018, 02223-2018, 02379-2018, 02381-2018, 02358-2018, 02466-2018, 02468-2018, 02471-2018, 02397-2018, 02377-2018, 02732-2018, 02469-2018, 02470-2018, and 02476-2018 is contractual information and information relating to competitive interests that Seminole treats as proprietary confidential business information. Seminole avers that the information relates to the competitive interest of Seminole and asserts that this information concerns bids or other contractual data, the disclosure of which would impair the efforts of Seminole to contract for goods and services on favorable terms. Seminole argues that such information is entitled to confidential classification pursuant to Sections 366.093(3), (3)(d) and (3)(e), F.S.

Ruling

Section 366.093(1), F.S., provides that records the Florida Public Service Commission (Commission) has found to contain proprietary business information shall be kept confidential and shall be exempt from Chapter 119, F.S. Section 366.093(3), F.S., defines proprietary confidential business information as information that is intended to be and is treated by the company as private, in that disclosure of the information would cause harm to the company's

¹ The exhibits were treated as confidential at the hearing held on March 21 and 22, 2018, for both Docket Nos. 20170266-EC and 20170267-EC.

² Seminole inadvertently disclosed confidential information in response to Staff's First Request for Production of Documents (Nos. 11 and 13) and in the un-redacted transcript and deposition exhibits of Michael Ward. Except for these inadvertent disclosures, which have since been redacted, Seminole asserts that the information for which confidential treatment is sought has not been disclosed to the public.

ratepayers or business operations, and has not been voluntarily disclosed to the public. Section 366.093(3), F.S., provides that proprietary confidential business information includes, but is not limited to:

- (d) 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.
- (e) Information relating to competitive interests, the disclosure of which would impair the competitive business of the provider of the information.

Upon review, it appears the above-referenced information satisfies the criteria set forth in Sections 366.093(3)(d) and (e), F.S., for classification as proprietary confidential business information. The information described above and in Seminole's requests appears to contain information concerning bids or other contractual data, the disclosure of which would impair the efforts of Seminole or its members to contract for goods or services on favorable terms; and information relating to competitive interests, the disclosure of which would also impair the competitive business of the provider of the information. Thus, the information identified as confidential in Document Nos. 01988-2018, 02013-2018, 01826-2018, 02190-2018, 02241-2018, 02223-2018, 02379-2018, 02381-2018, 02358-2018, 02466-2018, 02468-2018, 02471-2018, 02397-2018, 02377-2018, 02732-2018, 02469-2018, 02470-2018, and 02476-2018 shall be granted confidential classification.

Pursuant to Section 366.093(4), F.S., the information for which confidential classification is granted herein shall remain protected from disclosure for a period of up to 18 months from the date of issuance of this Order. At the conclusion of the 18-month period, the confidential information will no longer be exempt from Section 119.07(1), F.S., unless Seminole or another affected person shows, and the Commission finds, that the records continue to contain proprietary confidential business information.

Based on the foregoing, it is hereby

ORDERED by Commissioner Gary F. Clark as Prehearing Officer, that Seminole Electric Cooperative, Inc.'s Requests for Confidential Classification of Document Nos. 01988-2018, 02013-2018, 01826-2018, 02190-2018, 02241-2018, 02223-2018, 02379-2018, 02381-2018, 02358-2018, 02466-2018, 02468-2018, 02471-2018, 02397-2018, 02377-2018, 02732-2018, 02469-2018, 02470-2018, and 02476-2018 is hereby granted. It is further

ORDERED that the information in Document Nos. 01988-2018, 02013-2018, 01826-2018, 02190-2018, 02241-2018, 02223-2018, 02379-2018, 02381-2018, 02358-2018, 02466-2018, 02468-2018, 02471-2018, 02397-2018, 02377-2018, 02732-2018, 02469-2018, 02470-2018, and 02476-2018, for which confidential classification has been granted, shall remain protected from disclosure for a period of up to 18 months from the date of issuance of this Order. At the conclusion of the 18-month period, the confidential information will no longer be exempt from Section 119.07(1), F.S., unless Seminole Electric Cooperative, Inc. or another affected

person shows, and the Commission finds, that the records continue to contain proprietary confidential business information. It is further

ORDERED that this Order shall be the only notification by the Commission to the parties of the date of declassification of the materials discussed herein.

By ORDER of Commissioner Gary F. Clark, as Prehearing Officer, this 11th day of April, 2018.



GARY F. CLARK
Commissioner and Prehearing Officer
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Copies furnished: A copy of this document is provided to the parties of record at the time of issuance and, if applicable, interested persons.

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NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

Any party adversely affected by this order, which is preliminary, procedural or intermediate in nature, may request: (1) reconsideration within 10 days pursuant to Rule 25-22.0376, Florida Administrative Code; or (2) judicial review by the Florida Supreme Court, in the case of an electric, gas or telephone utility, or the First District Court of Appeal, in the case

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Commission Clerk, in the form prescribed by Rule 25-22.0376, Florida Administrative Code. Judicial review of a preliminary, procedural or intermediate ruling or order is available if review of the final action will not provide an adequate remedy. Such review may be requested from the appropriate court, as described above, pursuant to Rule 9.100, Florida Rules of Appellate Procedure.