

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Nuclear cost recovery clause.

DOCKET NO. 140009-EI  
ORDER NO. PSC-14-0200-CFO-EI  
ISSUED: May 2, 2014

ORDER GRANTING DUKE ENERGY FLORIDA, INC.'S REQUEST FOR CONFIDENTIAL CLASSIFICATION (DOCUMENT NO. 07239-12)

On October 24, 2012, pursuant to Section 366.093, Florida Statutes (F.S.), and Rule 25-22.006, Florida Administrative Code (F.A.C.), Duke Energy Florida, Inc. (DEF or Company) filed a request for confidential classification of information (Request) concerning portions of the final work papers of the Commission staff audit titled "Review of Progress Energy Florida, Inc.'s Project Management Internal Controls for Nuclear Plant Uprate and Construction Project" (Audit) (Document No. 07239-12). This Request was filed in Docket No. 120009-EI.

Request for Confidential Classification

DEF contends that the information provided in its filing on October 24, 2012, as more specifically described in Appendix C attached to DEF's Request, constitutes proprietary confidential business information entitled to protection under Section 366.093, F.S., and Rule 25-22.006, F.A.C. DEF argues that this information is intended to be and is treated by DEF as private and has not been publicly disclosed.

DEF asserts that the Audit contains confidential contractual data, including pricing agreements and other confidential contractual financial terms regarding long-lead equipment, the release of which would impair DEF's competitive business interests. The Audit contains information related to work authorization contractual amendments and other contractual data that are subject to confidentiality agreements between DEF and the other contracting parties. DEF negotiates each of its contracts to obtain the most competitive terms available to benefit DEF and its ratepayers. In order to successfully obtain such contracts, however, DEF must be able to assure the other parties to the contracts that the sensitive business information contained therein, such as quantity and pricing terms, will remain confidential. The public disclosure of this information would allow other parties to discover how the Company analyzes risk options, scheduling, and cost, and would impair DEF's ability to contract for such goods and services on competitive and favorable terms.

Furthermore, portions of the Audit reflect details regarding risk analyses and on-going negotiations. This material includes proprietary confidential information that is not disseminated outside of the senior management of the Company and other employees who need the information to perform their jobs. The information includes, among other things, risk analyses, analyses of the various options DEF has confronted, as well as confidential contractual terms. If such information was disclosed to DEF's competitors or other potential suppliers, DEF's efforts to obtain competitive nuclear equipment and service options that provide economic value to both

the Company and its customers could be compromised by the Company's competitors or suppliers changing their offers, consumption, or purchasing behavior within the relevant markets. In addition, by the terms of various contracts relevant to this motion, all parties, including DEF, have agreed to protect the proprietary and confidential information from public disclosure.

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

- (b) Internal auditing controls and reports of internal auditors.
- (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 Section 366.093(3), F.S., for classification as proprietary confidential business information. The information appears to be information concerning bids or other contractual data, the disclosure of which would impair the efforts of DEF or its affiliates to contract for goods or services on favorable terms and information relating to competitive interests, the disclosure of which would impair the competitive business of the provider of the information. The information also appears to contain information related to internal auditing controls and reports of internal auditors; thus, the information identified in Document No. 07239-12 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 DEF 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 Julie I. Brown, as Prehearing Officer, that Duke Energy Florida, Inc.'s Request for Confidential Classification of Document No. 07239-12 is granted. It is further

ORDERED that the information in Document No. 07239-12 for which confidential classification has been granted shall remain protected from disclosure for a period of 18 months from the date of issuance of this Order. 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 Julie I. Brown, as Prehearing Officer, this 2nd day of May, 2014.



JULIE I. BROWN

Commissioner and Prehearing Officer

Florida Public Service Commission

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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.

MTL

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 of a water or wastewater utility. A motion for reconsideration shall be filed with the Office of 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.