

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Nuclear cost recovery clause.

DOCKET NO. 140009-EI
ORDER NO. PSC-14-0256-CFO-EI
ISSUED: May 23, 2014

ORDER GRANTING DUKE ENERGY FLORIDA, INC.'S REQUEST FOR CONFIDENTIAL CLASSIFICATION (DOCUMENT NO. 07728-09)

On July 28, 2009, 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 work papers produced to the Florida Public Service Commission's (Commission) Auditor for use in the audit titled "Review of DEF's Project Management Internal Controls for Nuclear Plant Uprate and Construction Projects Draft Report," dated July 1, 2009 (Audit) (Document No. 07728-09). This Request was filed in Docket No. 090009-EI.

Request for Confidential Classification

DEF contends that the information provided in its July 28, 2009 filing, 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 asserts that this information is intended to be and is treated by DEF as private and has not been publicly disclosed.

DEF further asserts that the Audit contains confidential competitive business information, including contractual data, internal audit reports, and other confidential competitive business information, the disclosure of which would harm the Company's competitive business interests, as well as violate certain nondisclosure provisions of these contracts. Specifically, the Audit includes information regarding the contractual agreements necessary for the success of the Levy Nuclear Project and the Crystal River Unit 3 Uprate Project, the disclosure of which would be a violation of contractually agreed to confidentiality provisions. DEF also asserts that the information, if made public, would impair its efforts to contract for goods or services on favorable terms. Additionally, DEF contends that the public disclosure of this information would allow other potential suppliers, vendors, or purchasers of such services to change their position in future negotiations with DEF. DEF argues that without measures to maintain the confidentiality of sensitive terms in these contracts, the Company's efforts to obtain competitive contracts would be undermined.

Additionally, portions of the Audit contain information from the Company's internal audit reports and controls, the disclosure of which would impair the Company's ability to effectively audit and oversee its major projects, by eliminating the confidentiality required for complete cooperation with auditors.

Ruling

Section 366.093(1), F.S., provides that records the 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. 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 the public utility 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. 07728-09 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. 07728-09 is granted. It is further

ORDERED that the information in Document No. 07728-09 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. 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 23rd day of May, 2014.



JULIE I. BROWN

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.

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.