

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Nuclear cost recovery clause.

DOCKET NO. 160009-EI
ORDER NO. PSC-16-0355-CFO-EI
ISSUED: August 26, 2016

ORDER GRANTING DUKE ENERGY FLORIDA, LLC'S REQUEST FOR CONFIDENTIAL CLASSIFICATION (DOCUMENT NO. 03754-16)

On June 16, 2016, pursuant to Section 366.093, Florida Statutes (F.S.), and Rule 25-22.006, Florida Administrative Code (F.A.C.), Duke Energy Florida, LLC (DEF) filed a Request for Confidential Classification (Request) of portions of the final audit report of the Florida Public Service Commission (Commission) Staff Auditors Project Management Audit Report No. PA-16-01-001 (audit papers) (Document No. 03754-16). This Request was filed in Docket No. 160009-EI.

Request for Confidential Classification

DEF contends that the audit papers, as more specifically identified in Exhibit C to its Request, constitute proprietary confidential business information entitled to protection under Section 366.093, F.S. and Rule 25-22.006, F.A.C. DEF contends that the audit papers contain contractual information, that, if publicly disclosed, would cause harm to DEF. DEF asserts 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 papers contain confidential information relating to contractual data associated with its Levy Nuclear Project, which if publicly released would impair DEF's competitive interests and violate the confidentiality provisions of its Engineering, Procurement, and Construction Agreement. DEF states that its efforts to obtain competitive contracts will be undermined if it cannot maintain the confidentiality of sensitive terms in contracts between DEF and contractors. DEF further contends that if this information were to be made public, its efforts to obtain competitive nuclear equipment and service options that provide economic value to both DEF and its customers in the future could be compromised by third parties changing their offers or negotiating strategies. As such, DEF argues that the audit papers should be protected pursuant to Section 366.093(3)(d) and (e), F.S.

DEF also asserts that the audit papers contain confidential information relating to original price and sales cost numbers regarding its Extended Power Uprate Project, which if publicly released would impair DEF's competitive business interests and violate its confidentiality agreements with third parties and vendors. DEF states that its efforts to obtain competitive contracts will be undermined if it cannot maintain the confidentiality of sensitive terms in contracts between DEF and third parties. DEF further contends that if this information were to be made public, its efforts to obtain competitive nuclear equipment and service options that provide economic value to both DEF and its customers in the future could be compromised by

third parties changing their offers or negotiating strategies. As such, DEF argues that the audit papers should be protected pursuant to Section 366.093(3)(d) and (e), F.S.

Ruling

Section 366.093(1), F.S., provides that records the 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 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 that the information described above satisfies the criteria set forth in Section 366.093(3), F.S., for classification as proprietary confidential business information. The information described above and in Exhibit C, attached to DEF's Request, 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. Thus, the information identified in Document No. 03754-16 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 Art Graham, as Prehearing Officer, that Duke Energy Florida, LLC's Request for Confidential Classification of Document No. 03754-16 is granted. It is further

ORDERED that the information in Document No. 03754-16, for which confidential classification has been granted, shall remain protected from disclosure for a period of up to 18 months from the date of the issuance of this Order. It is further

ORDERED that this Order will be the only notification by the Commission to the parties concerning the expiration of the confidentiality time period.

By ORDER of Commissioner Art Graham, as Prehearing Officer, this 26th day of August, 2016.



ART GRAHAM

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 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.