

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Nuclear cost recovery clause.

DOCKET NO. 160009-EI
ORDER NO. PSC-16-0443-CFO-EI
ISSUED: October 7, 2016

ORDER GRANTING DUKE ENERGY FLORIDA, LLC'S REQUEST FOR CONFIDENTIAL CLASSIFICATION (DOCUMENT NO. 01084-16)

On March 1, 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 its First Request for Confidential Classification (Request) of certain information provided in DEF's true-up testimony and exhibits filed contemporaneously in the above referenced matter (Document No. 01084-16). This Request was filed in Docket No. 160009-EI.

Request for Confidential Classification

In its instant Request, DEF contends that the information provided in Document No. 01084-16, constitutes proprietary confidential business information entitled to continued protection under Section 366.093, F.S. and Rule 25-22.006, F.A.C. DEF states that this information is intended to be and continues to be treated by DEF as private and has not been publicly disclosed.

DEF contends portions of the testimony of Mr. Foster and attached Exhibit TGF-1 (Schedule) contain confidential and sensitive contractual information and cost numbers regarding the Levy Nuclear Project ("LNP"), the disclosure of which would impair DEF's competitive business interests and ability to negotiate favorable contracts, as well as violate contractual nondisclosure provisions of these contracts. Regarding the LNP specifically, the testimony of Mr. Fallon also contains data that is competitively sensitive under the terms and conditions of the Engineering, Procurement, and Construction contract (EPC Agreement) with Westinghouse Electric Company and Stone & Webster, Inc. (the Consortium).

Additionally, DEF is requesting confidential classification of Exhibit CMF-1 to the testimony of Mr. Fallon because this exhibit contains confidential settlement information between the DEF, the Consortium, and its vendors regarding the disposition of long lead equipment (LLE) for the LNP. DEF contends this information would adversely impact DEF's competitive business interests, and ongoing LLE disposition process and wind down negotiations, if disclosed to third parties.

With regards to the EPU project, DEF is requesting confidential classification of portions of Exhibit MT-4 to Mr. Teague's testimony that contain confidential information regarding certain negotiations and sales of EPU equipment and materials. DEF asserts that disclosure of this information would adversely impact DEF's competitive business interests and should be protected under 366.093(3)(e), F.S.

Ruling

Section 366.093(1), F.S., provides that records that the Commission has found to contain proprietary confidential 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 DEF as private, in that disclosure of the information would cause harm to DEF's ratepayers or business operations, and that has not been voluntarily disclosed to the public. Section 366.093(3), F.S., provides, in pertinent part, 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 Section 366.093(3), F.S., for continued classification as proprietary confidential business information. The information described above 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. 01084-16 shall be granted a continuation of 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 First Request for Extension of Confidential Classification is granted. It is further

ORDERED that the information contained in Document No. 01084-16, for which confidential classification has been granted, shall remain protected from disclosure for a period of up to 18 months from the date of 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 7th day of October, 2016.



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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.

WDT

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.