

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Nuclear cost recovery clause.

DOCKET NO. 20170009-EI
ORDER NO. PSC-2017-0263-CFO-EI
ISSUED: July 11, 2017

ORDER GRANTING DUKE ENERGY FLORIDA, LLC'S FIRST REQUEST FOR
EXTENSION OF CONFIDENTIAL CLASSIFICATION (DOCUMENT NO. 03040-2015)

On February 17, 2017, 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 or Company) filed its First Request for Extension of Confidential Classification (request) concerning portions of information contained within the May 1, 2015 direct testimony of Thomas G. Foster and Exhibit TGF-3 (Document No. 03040-2015). This Request was filed in Docket No. 20170009-EI.

Request for Confidential Classification

DEF's original request for confidential treatment of information contained Document No. 03040-2015 was granted by Order No. PSC-15-0337-CFO-EI (initial order), issued August 21, 2015. Of the information granted confidential treatment in the initial order, DEF states that the direct testimonies of Mark Teague and Christopher Fallon and attached Exhibit CMF-7 (testimonies of Teague and Fallon) are no longer confidential.

DEF seeks an extension of confidential classification only relating to the direct testimony of Thomas G. Foster and Exhibit TGF-3 (collectively "Foster's testimony"). DEF contends that this information contains proprietary confidential business information entitled to continued protection under Section 366.093(3), 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 confidential and has not been publicly disclosed. DEF asserts that the period of confidential treatment of the above-numbered document is due to expire soon and that nothing has changed since the issuance of the initial order to render the information within Fallon's testimony stale or public such that continued confidential treatment would not be appropriate within the meaning of Section 366.093(3), F.S.

Within the initial order, confidentiality was granted pursuant to Section 366.093(d) and (e), F.S. DEF's request incorporates by reference and adopts the arguments propounded in its original request. Also included within DEF's request is Revised Exhibit D containing the affidavit of Christopher M. Fallon in support of DEF's request. DEF contends that Fallon's testimony contains sensitive proprietary and confidential contractual and cost information related to the engineering, procurement, and construction (EPC) agreement. DEF argues that public disclosure of this information would allow other parties to discover how DEF analyzes risk options, scheduling, and cost, and would impair DEF's ability to contract goods and service on competitive favorable terms and could adversely impact DEF's competitive business interests.

Ruling

Section 366.093(1), F.S., provides that records that the Florida Public Service Commission (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. 03040-2015, with the exception of the testimonies of Teague and Fallon, 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 Ronald A. Brisé, as Prehearing Officer, that Duke Energy Florida, LLC's Request for Extension of Confidential Classification of Document No. 03040-2015, with the exception of the testimonies of Teague and Fallon, is granted. It is further

ORDERED that the information contained in Document No. 03040-2015, 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 Ronald A. Brisé, as Prehearing Officer, this 11th day of July, 2017.



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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.

KRM

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.