

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for a limited proceeding to  
approve third solar base rate adjustment, by  
Duke Energy Florida, LLC.

DOCKET NO. 20200153-EI  
ORDER NO. PSC-2020-0314-CFO-EI  
ISSUED: September 17, 2020

ORDER GRANTING DUKE ENERGY FLORIDA, LLC'S  
REQUEST FOR CONFIDENTIAL CLASSIFICATION  
(DOCUMENT NOS. 05385-2020 AND 06072-2020)

On September 3, 2020, 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 information contained in DEF's response to Staff's First Set of Interrogatories, Nos. 1-12, and Staff's First Request for Production of Documents, Nos. 1-2, (Document No 05385-2020). On September 4, 2020, at Staff's request, the utility filed an updated response to Staff's First Set of Interrogatories, Nos. 1-12, and Staff's First Request for Production of Documents, Nos. 1-2, providing a document in Excel format that had previously been provided in Portable Document Format (pdf) (Document No. 06072-2020). In its updated response, DEF stated that the document was being provided pursuant to its original Request.

Request for Confidential Classification

DEF contends that the information specifically described in Exhibit C, attached to its Request, constitutes proprietary and 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 confidential and has not been publicly disclosed.

DEF contends that the information contained in its response to Staff's First Set of Interrogatories, specifically Nos. 7 and 9, and Staff's First Request for Production of Documents, specifically No. 1, relates to contractual cost data, including land lease rental payments and lease agreement terms. Pursuant to its contracts, DEF states that it is obligated to maintain the confidentiality of this information, and therefore the information qualifies for confidential classification. DEF maintains that if it cannot assure contracting parties that DEF can maintain the confidentiality of contractual terms, those parties and other similarly situated parties may forego entering contracts with DEF, which would adversely impact DEF's competitive business interests and the interests of its customers. Therefore, DEF argues that such information is entitled to confidential classification pursuant to Section 366.093(3)(d) and (e), F.S.

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 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 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 described above and in DEF's Request appears to contain 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 Nos. 05385-2020 and 06072-2020 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, LLC's Request for Confidential Classification of Document Nos. 05385-2020 and 06072-2020 is granted. It is further

ORDERED that the information in Document Nos. 05385-2020 and 06072-2020, 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. 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. 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 17th day of September, 2020.



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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.

KMS

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.