

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Fuel and purchased power cost recovery
clause with generating performance incentive
factor.

DOCKET NO. 20200001-EI
ORDER NO. PSC-2020-0374-CFO-EI
ISSUED: October 16, 2020

ORDER GRANTING REQUEST FOR CONFIDENTIAL CLASSIFICATION
(DOCUMENT NOS. 00962-2020, 00963-2020, 00964-2020, 00967-2020 to 00979-2020
AND 00981-2020 to 00983-2020)

On March 10, 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 the transcripts of a hearing before the Florida Division of Administrative Hearings (DOAH) conducted on February 4 and 5, 2020, as well as Exhibits 101-113, 115 and 117 admitted into evidence at that hearing. (Document Nos. 00962-2020, 00963-2020, 00964-2020, 00967-2020 to 00979-2020, and 00981-2020 to 00983-2020). This material was submitted on February 18, 2020, along with a Notice of Intent to Request Confidential Classification (Document No. 00961-2020).

Request for Confidential Classification

DEF contends that the information contained in transcripts of a hearing before the Florida Division of Administrative Hearings (DOAH) conducted on February 4 and 5, 2020, as well as Exhibits 101-113, 115 and 117, more specifically described in Exhibit C to its 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.

The information contained the transcripts of a hearing before the Florida Division of Administrative Hearings (DOAH) conducted on February 4 and 5, 2020, as well as Exhibits 101-113, 115 and 117, contain diagrams and technical information regarding the design and operational parameters of a Mitsubishi steam turbine connected to DEF's Bartow Unit 4 power plant which are proprietary to Mitsubishi. Disclosure of the transcripts and exhibits would reveal this proprietary third-party owned information which could potentially impair DEF's ability to contract for goods and services on favorable terms in the future as vendors would charge a premium if DEF could not protect their information. DEF argues that this information is protected by Subsection 366.093(3)(d) and (e), F.S.

Ruling

Subsection 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. Subsection 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. Subsection 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 Subsection 366.093(3), F.S., for classification as proprietary confidential business information. The pricing terms in vendor and 3rd party contracts appear 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.” Thus, the information identified in Document Nos. 00962-2020, 00963-2020, 00964-2020, 00967-2020 to 00979-2020, and 00981-2020 to 00983-2020, as well as Exhibits 101-113, 115 and 117, shall be granted confidential classification.

Pursuant to Subsection 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 Andrew Giles Fay, as Prehearing Officer, that Duke Energy Florida, LLC's Request for Confidential Classification of Document Nos. 00962-2020, 00963-2020, 00964-2020, 00967-2020 to 00979-2020, and 00981-2020 to 00983-2020, as well as Exhibits 101-113, 115 and 117, is granted, as set forth herein. It is further

ORDERED that the information in Document Nos. 00962-2020, 00963-2020, 00964-2020, 00967-2020 to 00979-2020, and 00981-2020 to 00983-2020, as well as Exhibits 101-113, 115 and 117, 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 Andrew Giles Fay, as Prehearing Officer, this 16th day of October, 2020.



ANDREW GILES FAY
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.

SBr

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

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appropriate court, as described above, pursuant to Rule 9.100, Florida Rules of Appellate Procedure.