

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for Determination)
of Cost Effective Generation Alternative)
to Meet Need Prior to 2018 for Duke)
Energy Florida, Inc.)
_____)

DOCKET NO. 140111-EI
Submitted for filing: August 6, 2014

REDACTED

DUKE ENERGY FLORIDA, INC.'S TWELFTH REQUEST FOR CONFIDENTIAL CLASSIFICATION REGARDING PORTIONS OF RESPONSES TO NRG FLORIDA LP'S FOURTH REQUEST FOR PRODUCTION OF DOCUMENTS

Duke Energy Florida, Inc. ("DEF" or the "Company"), pursuant to Section 366.093, Florida Statutes, and Rule 25-22.006(3), Florida Administrative Code ("F.A.C."), files this Request for Confidential Classification Regarding Portions of Duke Energy Florida, Inc.'s responses to NRG Florida LP's Fourth Request for Production of Documents (No. 36). Specifically, DEF is seeking confidential classification of its response to NRG Florida LP's Fourth Request for Production of Documents, Number 36. Unredacted versions of the documents discussed above are being filed under seal with the Commission as Appendix A on a confidential basis to keep the competitive business information in those documents confidential.

With respect to the confidential information contained in the responses to NRG Florida LP's, DEF filed its Notice of Intent to Request Confidential Classification on July 16, 2014 (Document No. 03761-14). Pursuant to Rule 25-22.006(3), Florida Administrative Code, this request is timely. DEF hereby submits the following in support of its confidentiality request.

- COM _____
- AFD _____
- APA _____
- ECO _____
- ENG 3 + EX B
- GCL _____
- IDM _____
- TEL _____
- CLK _____

RECEIVED-FPSC
14 AUG - 6 PM 2: 25
COMMISSION
CLERK

BASIS FOR CONFIDENTIAL CLASSIFICATION

Section 366.093(1), Florida Statutes, provides that “any records received by the Commission which are shown and found by the Commission to be proprietary confidential business information shall be kept confidential and shall be exempt from [the Public Records Act].” § 366.093(1), Fla. Stat. Proprietary confidential business information means information that is (i) intended to be and is treated as private confidential information by the Company, (ii) because disclosure of the information would cause harm, (iii) either to the Company’s ratepayers or the Company’s business operation, and (iv) the information has not been voluntarily disclosed to the public. § 366.093(3), Fla. Stat. Specifically, “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” is defined as proprietary confidential business information. § 366.093(3)(d), Fla. Stat. Additionally, subsection 366.093(3)(e) defines “information relating to competitive interests, the disclosure of which would impair the competitive business of the provider of the information,” as proprietary confidential business information.

DEF is requesting confidential classification of the responsive information to NRG’s Fourth Request for Production of Documents No. 36, specifically as noted above and in the supporting Affidavit of Benjamin M.H. Borsch ¶¶ 3-4, because the response contains proprietary and confidential competitive business information and contractual data and competitively sensitive commercial information and potential supplier data, the disclosure of which would adversely impact DEF’s competitive business interests. Affidavit of Borsch, ¶ 5. The Company must be able to assure these vendors that sensitive business information will be kept confidential. Indeed, most of the contracts at issue contain confidentiality provisions that prohibit the disclosure of the terms of the contract to third parties. Id. If third parties were made

aware of confidential contractual terms and conditions that the Company has with other parties, they may offer DEF less competitive contractual terms and conditions in any future contractual negotiations. Without DEF's measures to maintain the confidentiality of sensitive terms in these proposals and contracts between DEF and these vendors, the Company's efforts to obtain competitive contracts would be undermined. Affidavit of Borsch, ¶ 6.

Confidentiality Procedures

Strict procedures are established and followed to maintain the confidentiality of the terms of all of the confidential documents and information at issue, including restricting access to those persons who need the information and documents to assist the Company. See Affidavit of Borsch, ¶ 7.

At no time has the Company publicly disclosed the confidential information or documents at issue; DEF has treated and continues to treat the information and documents at issue as confidential. See Affidavit of Borsch, ¶ 8. DEF requests this information be granted confidential treatment by the Commission.

Conclusion

The competitive, confidential information at issue in this Request fits the statutory definition of proprietary confidential business information under Section 366.093, Florida Statutes, and Rule 25-22.006, F.A.C., and therefore that information should be afforded confidential classification. In support of this motion, DEF has enclosed the following:

(1) A separate, sealed envelope containing one copy of the confidential Appendix A to DEF's Twelfth Request for Confidential Classification which DEF intends to request confidential classification with the appropriate section, pages, or lines containing the confidential information highlighted. **This information should be accorded confidential treatment pending a decision on DEF's Request by the Commission;**

(2) Two copies of the documents with the information for which DEF intends to request confidential classification redacted by section, pages, or lines where appropriate as Appendix B; and,

(3) A justification matrix of the confidential information contained in Appendix A supporting DEF's Request, as Appendix C.

WHEREFORE, DEF respectfully requests that the redacted portions of DEF's response to NRG Florida LP's Fourth Request for Production of Documents No. 36 be classified as confidential for the reasons set forth above.

Respectfully submitted this 6th day of August, 2014.

John T. Burnett
Deputy General Counsel
Dianne M. Triplett
Associate General Counsel
DUKE ENERGY FLORIDA, INC.
Post Office Box 14042
St. Petersburg, FL 33733-4042
Telephone: (727) 820-5587
Facsimile: (727) 820-5519

/s/ Blaise N. Gamba
James Michael Walls
Florida Bar No. 0706242
Blaise N. Gamba
Florida Bar No. 0027942
CARLTON FIELDS JORDEN BURT, P.A.
Post Office Box 3239
Tampa, FL 33601-3239
Telephone: (813) 223-7000
Facsimile: (813) 229-4133

CERTIFICATE OF SERVICE

I HEREBY CERTIFY a true and correct copy of the foregoing has been furnished to counsel and parties of record as indicated below via electronic and overnight mail this 6th day of August, 2014.

/s/ Blaise N. Gamba

Attorney

Michael Lawson
Florida Public Service Commission Staff
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850
Phone: (850) 413-6199
Facsimile: (850) 413-6184
Email: mlawson@psc.state.fl.us

Charles Rehwinkel
Deputy Public Counsel
Erik Saylor
Associate Public Counsel
Office of Public Counsel
c/o The Florida Legislature
111 West Madison Street, Room 812
Tallahassee, FL 32399-1400
Phone: (850) 488-9330
Email: rehwinkel.charles@leg.state.fl.us
Saylor.erik@leg.state.fl.us

Jon C. Moyle, Jr.
Karen A. Putnal
Moyle Law Firm
118 North Gadsden Street
Tallahassee, FL 32301
Phone: (850) 681-3828
Fax: (850) 681-8788
Email: jmoyle@moylelaw.com
kputnal@moylelaw.com

James W. Brew
F. Alvin Taylor
Brickfield Burchette Ritts & Stone, PC
1025 Thomas Jefferson St NW
8th FL West Tower
Washington, DC 20007-5201
Phone: (202) 342-0800
Fax: (202) 342-0807
Email: jbrew@bbrslaw.com
ataylor@bbrslaw.com

Robert Scheffel Wright
John T. LaVia, III
Gardner Law Firm
1300 Thomaswood Drive
Tallahassee, FL 32308
Phone: (850) 385-0070
Email: Schef@gbwlegal.com
Jlavia@gbwlegal.com

Marsha E. Rule
Rutledge Ecenia
119 South Monroe Street, Ste. 202
Tallahassee, FL 32301
Phone: (850) 681-6788
Fax: (850) 681-6515
Email: marsha@rutledge-ecenia.com

Gordon D. Polozola
NRG Energy, Inc.
112 Telly Street
New Roads, LA 70760
Phone: (225) 618-4084
Email: Gordon.Polozola@nrgenergy.com

Richard A. Zambo
Richard A. Zambo, P.A.
2336 S.E. Ocean Boulevard, #309
Stuart, FL 34966
Phone: (772) 225-5400
Email: richzambo@aol.com

DOCKET 140111-EI

In re: Petition for Determination of Cost Effective Generation
Alternative to Meet Need Prior To 2018 For Duke Energy Florida, Inc.

Duke Energy Florida, Inc.'s
Twelfth
Request for Confidential Classification

EXHIBIT B

DOCKET 140111-EI

In re: Petition for Determination of Cost Effective Generation
Alternative to Meet Need Prior To 2018 For Duke Energy Florida, Inc.

Duke Energy Florida, Inc.'s
Twelfth
Request for Confidential Classification

Documents bearing Bates Numbers
14LGBRA-NRGPOD4-36-000001
through
14LGBRA-NRGPOD4-36-000079
in their entirety

DUKE ENERGY FLORIDA
DOCKET NO. 140111-EI
Twelfth Request for Confidential Classification
Confidentiality Justification Matrix

DOCUMENT	PAGE/LINE/ COLUMN	JUSTIFICATION
<p>Duke Energy Florida, Inc.'s Responses to NRG Florida LP's Fourth Request for Production No. 36, Bates No. 14LGBRA-NRGPOD-4-000001 through 14LGBRA-NRGPOD-4-000053</p>	<p>Entire Document</p>	<p>366.093(3)(a), Fla. Stat. The document in question contains proprietary confidential information relating to trade secrets, the disclosure of which would impair DEF's business operations.</p> <p>§366.093(3)(d), Fla. Stat. The document portions in question contain confidential contractual information, the disclosure of which would impair DEF's efforts to contract for goods or services on favorable terms.</p> <p>§366.093(3)(e), Fla. Stat. The document portions in question contain confidential information relating to competitive business interests, the disclosure of which would impair the competitive business of the provider/owner of the information.</p>
<p>Duke Energy Florida, Inc.'s Responses to NRG Florida LP's Fourth Request for Production No. 36, Bates No. 14LGBRA-NRGPOD-4-000054</p>	<p>Entire Document</p>	<p>366.093(3)(a), Fla. Stat. The document in question contains proprietary confidential information relating to trade secrets, the disclosure of which would impair DEF's business operations.</p> <p>§366.093(3)(d), Fla. Stat. The document portions in question contain confidential contractual information, the disclosure of which would impair DEF's efforts to contract for goods or services on favorable terms.</p> <p>§366.093(3)(e), Fla. Stat. The document portions in question</p>

DUKE ENERGY FLORIDA
DOCKET NO. 140111-EI
Twelfth Request for Confidential Classification
Confidentiality Justification Matrix

DOCUMENT	PAGE/LINE/ COLUMN	JUSTIFICATION
		contain confidential information relating to competitive business interests, the disclosure of which would impair the competitive business of the provider/owner of the information.
Duke Energy Florida, Inc.'s Responses to NRG Florida LP's Fourth Request for Production No. 36, Bates No. 14LGBRA-NRGPOD-4-000055	Entire Document	<p>366.093(3)(a), Fla. Stat. The document in question contains proprietary confidential information relating to trade secrets, the disclosure of which would impair DEF's business operations.</p> <p>§366.093(3)(d), Fla. Stat. The document portions in question contain confidential contractual information, the disclosure of which would impair DEF's efforts to contract for goods or services on favorable terms.</p> <p>§366.093(3)(e), Fla. Stat. The document portions in question contain confidential information relating to competitive business interests, the disclosure of which would impair the competitive business of the provider/owner of the information.</p>
Duke Energy Florida, Inc.'s Responses to NRG Florida LP's Fourth Request for Production No. 36, Bates No. 14LGBRA-NRGPOD-4-000056	Entire Document	<p>366.093(3)(a), Fla. Stat. The document in question contains proprietary confidential information relating to trade secrets, the disclosure of which would impair DEF's business operations.</p> <p>§366.093(3)(d), Fla. Stat. The document portions in question contain confidential contractual information, the disclosure of which</p>

DUKE ENERGY FLORIDA
DOCKET NO. 140111-EI
Twelfth Request for Confidential Classification
Confidentiality Justification Matrix

DOCUMENT	PAGE/LINE/ COLUMN	JUSTIFICATION
		<p>would impair DEF's efforts to contract for goods or services on favorable terms.</p> <p>§366.093(3)(e), Fla. Stat. The document portions in question contain confidential information relating to competitive business interests, the disclosure of which would impair the competitive business of the provider/owner of the information.</p>
Duke Energy Florida, Inc.'s Responses to NRG Florida LP's Fourth Request for Production No. 36, Bates No. 14LGBRA-NRGPOD-4-000057 through 14LGBRA-NRGPOD-4-000059	Entire Document	<p>366.093(3)(a), Fla. Stat. The document in question contains proprietary confidential information relating to trade secrets, the disclosure of which would impair DEF's business operations.</p> <p>§366.093(3)(d), Fla. Stat. The document portions in question contain confidential contractual information, the disclosure of which would impair DEF's efforts to contract for goods or services on favorable terms.</p> <p>§366.093(3)(e), Fla. Stat. The document portions in question contain confidential information relating to competitive business interests, the disclosure of which would impair the competitive business of the provider/owner of the information.</p>
Duke Energy Florida, Inc.'s Responses to NRG Florida LP's Fourth Request for Production No. 36, Bates No. 14LGBRA-NRGPOD-4-000060	Entire Document	<p>366.093(3)(a), Fla. Stat. The document in question contains proprietary confidential information relating to trade secrets, the disclosure of which would impair DEF's business</p>

DUKE ENERGY FLORIDA
DOCKET NO. 140111-EI
Twelfth Request for Confidential Classification
Confidentiality Justification Matrix

DOCUMENT	PAGE/LINE/ COLUMN	JUSTIFICATION
		<p>operations.</p> <p>§366.093(3)(d), Fla. Stat. The document portions in question contain confidential contractual information, the disclosure of which would impair DEF's efforts to contract for goods or services on favorable terms.</p> <p>§366.093(3)(e), Fla. Stat. The document portions in question contain confidential information relating to competitive business interests, the disclosure of which would impair the competitive business of the provider/owner of the information.</p>
<p>Duke Energy Florida, Inc.'s Responses to NRG Florida LP's Fourth Request for Production No. 36, Bates No. 14LGBRA-NRGPOD-4-000061</p>	<p>Entire Document</p>	<p>366.093(3)(a), Fla. Stat. The document in question contains proprietary confidential information relating to trade secrets, the disclosure of which would impair DEF's business operations.</p> <p>§366.093(3)(d), Fla. Stat. The document portions in question contain confidential contractual information, the disclosure of which would impair DEF's efforts to contract for goods or services on favorable terms.</p> <p>§366.093(3)(e), Fla. Stat. The document portions in question contain confidential information relating to competitive business interests, the disclosure of which would impair the competitive business of the provider/owner of the information.</p>

**DUKE ENERGY FLORIDA
DOCKET NO. 140111-EI
Twelfth Request for Confidential Classification
Confidentiality Justification Matrix**

DOCUMENT	PAGE/LINE/ COLUMN	JUSTIFICATION
<p>Duke Energy Florida, Inc.'s Responses to NRG Florida LP's Fourth Request for Production No. 36, Bates No. 14LGBRA-NRGPOD-4-000062</p>	<p>Entire Document</p>	<p>366.093(3)(a), Fla. Stat. The document in question contains proprietary confidential information relating to trade secrets, the disclosure of which would impair DEF's business operations.</p> <p>§366.093(3)(d), Fla. Stat. The document portions in question contain confidential contractual information, the disclosure of which would impair DEF's efforts to contract for goods or services on favorable terms.</p> <p>§366.093(3)(e), Fla. Stat. The document portions in question contain confidential information relating to competitive business interests, the disclosure of which would impair the competitive business of the provider/owner of the information.</p>
<p>Duke Energy Florida, Inc.'s Responses to NRG Florida LP's Fourth Request for Production No. 36, Bates No. 14LGBRA-NRGPOD-4-000063 through 14LGBRA-NRGPOD-4-000064</p>	<p>Entire Document</p>	<p>366.093(3)(a), Fla. Stat. The document in question contains proprietary confidential information relating to trade secrets, the disclosure of which would impair DEF's business operations.</p> <p>§366.093(3)(d), Fla. Stat. The document portions in question contain confidential contractual information, the disclosure of which would impair DEF's efforts to contract for goods or services on favorable terms.</p> <p>§366.093(3)(e), Fla. Stat. The document portions in question contain confidential information</p>

DUKE ENERGY FLORIDA
DOCKET NO. 140111-EI
Twelfth Request for Confidential Classification
Confidentiality Justification Matrix

DOCUMENT	PAGE/LINE/ COLUMN	JUSTIFICATION
		relating to competitive business interests, the disclosure of which would impair the competitive business of the provider/owner of the information.
Duke Energy Florida, Inc.'s Responses to NRG Florida LP's Fourth Request for Production No. 36, Bates No. 14LGBRA-NRGPOD-4-000065	Entire Document	<p>366.093(3)(a), Fla. Stat. The document in question contains proprietary confidential information relating to trade secrets, the disclosure of which would impair DEF's business operations.</p> <p>§366.093(3)(d), Fla. Stat. The document portions in question contain confidential contractual information, the disclosure of which would impair DEF's efforts to contract for goods or services on favorable terms.</p> <p>§366.093(3)(e), Fla. Stat. The document portions in question contain confidential information relating to competitive business interests, the disclosure of which would impair the competitive business of the provider/owner of the information.</p>
Duke Energy Florida, Inc.'s Responses to NRG Florida LP's Fourth Request for Production No. 36, Bates No. 14LGBRA-NRGPOD-4-000066	Entire Document	<p>366.093(3)(a), Fla. Stat. The document in question contains proprietary confidential information relating to trade secrets, the disclosure of which would impair DEF's business operations.</p> <p>§366.093(3)(d), Fla. Stat. The document portions in question contain confidential contractual information, the disclosure of which would impair DEF's efforts to</p>

DUKE ENERGY FLORIDA
DOCKET NO. 140111-EI
Twelfth Request for Confidential Classification
Confidentiality Justification Matrix

DOCUMENT	PAGE/LINE/ COLUMN	JUSTIFICATION
		<p>contract for goods or services on favorable terms.</p> <p>§366.093(3)(e), Fla. Stat. The document portions in question contain confidential information relating to competitive business interests, the disclosure of which would impair the competitive business of the provider/owner of the information.</p>
<p>Duke Energy Florida, Inc.'s Responses to NRG Florida LP's Fourth Request for Production No. 36, Bates No. 14LGBRA-NRGPOD-4-000067</p>	<p>Entire Document</p>	<p>366.093(3)(a), Fla. Stat. The document in question contains proprietary confidential information relating to trade secrets, the disclosure of which would impair DEF's business operations.</p> <p>§366.093(3)(d), Fla. Stat. The document portions in question contain confidential contractual information, the disclosure of which would impair DEF's efforts to contract for goods or services on favorable terms.</p> <p>§366.093(3)(e), Fla. Stat. The document portions in question contain confidential information relating to competitive business interests, the disclosure of which would impair the competitive business of the provider/owner of the information.</p>
<p>Duke Energy Florida, Inc.'s Responses to NRG Florida LP's Fourth Request for Production No. 36, Bates No. 14LGBRA-NRGPOD-4-000068</p>	<p>Entire Document</p>	<p>366.093(3)(a), Fla. Stat. The document in question contains proprietary confidential information relating to trade secrets, the disclosure of which would impair DEF's business operations.</p>

DUKE ENERGY FLORIDA
DOCKET NO. 140111-EI
Twelfth Request for Confidential Classification
Confidentiality Justification Matrix

DOCUMENT	PAGE/LINE/ COLUMN	JUSTIFICATION
		<p>§366.093(3)(d), Fla. Stat. The document portions in question contain confidential contractual information, the disclosure of which would impair DEF's efforts to contract for goods or services on favorable terms.</p> <p>§366.093(3)(e), Fla. Stat. The document portions in question contain confidential information relating to competitive business interests, the disclosure of which would impair the competitive business of the provider/owner of the information.</p>
Duke Energy Florida, Inc.'s Responses to NRG Florida LP's Fourth Request for Production No. 36, Bates No. 14LGBRA-NRGPOD-4-000069 through 14LGBRA-NRGPOD-4-000070	Entire Document	<p>366.093(3)(a), Fla. Stat. The document in question contains proprietary confidential information relating to trade secrets, the disclosure of which would impair DEF's business operations.</p> <p>§366.093(3)(d), Fla. Stat. The document portions in question contain confidential contractual information, the disclosure of which would impair DEF's efforts to contract for goods or services on favorable terms.</p> <p>§366.093(3)(e), Fla. Stat. The document portions in question contain confidential information relating to competitive business interests, the disclosure of which would impair the competitive business of the provider/owner of the information.</p>
Duke Energy Florida, Inc.'s	Entire Document	366.093(3)(a), Fla. Stat.

**DUKE ENERGY FLORIDA
DOCKET NO. 140111-EI
Twelfth Request for Confidential Classification
Confidentiality Justification Matrix**

DOCUMENT	PAGE/LINE/ COLUMN	JUSTIFICATION
<p>Responses to NRG Florida LP's Fourth Request for Production No. 36, Bates No. 14LGBRA-NRGPOD-4-000071</p>		<p>The document in question contains proprietary confidential information relating to trade secrets, the disclosure of which would impair DEF's business operations.</p> <p>§366.093(3)(d), Fla. Stat. The document portions in question contain confidential contractual information, the disclosure of which would impair DEF's efforts to contract for goods or services on favorable terms.</p> <p>§366.093(3)(e), Fla. Stat. The document portions in question contain confidential information relating to competitive business interests, the disclosure of which would impair the competitive business of the provider/owner of the information.</p>
<p>Duke Energy Florida, Inc.'s Responses to NRG Florida LP's Fourth Request for Production No. 36, Bates No. 14LGBRA-NRGPOD-4-000072 through 14LGBRA-NRGPOD-4-000075</p>	<p>Entire Document</p>	<p>366.093(3)(a), Fla. Stat. The document in question contains proprietary confidential information relating to trade secrets, the disclosure of which would impair DEF's business operations.</p> <p>§366.093(3)(d), Fla. Stat. The document portions in question contain confidential contractual information, the disclosure of which would impair DEF's efforts to contract for goods or services on favorable terms.</p> <p>§366.093(3)(e), Fla. Stat. The document portions in question contain confidential information relating to competitive business</p>

DUKE ENERGY FLORIDA
DOCKET NO. 140111-EI
Twelfth Request for Confidential Classification
Confidentiality Justification Matrix

DOCUMENT	PAGE/LINE/ COLUMN	JUSTIFICATION
		interests, the disclosure of which would impair the competitive business of the provider/owner of the information.
Duke Energy Florida, Inc.'s Responses to NRG Florida LP's Fourth Request for Production No. 36, Bates No. 14LGBRA-NRGPOD-4-000076 through 14LGBRA-NRGPOD-4-000077	Entire Document	<p>366.093(3)(a), Fla. Stat. The document in question contains proprietary confidential information relating to trade secrets, the disclosure of which would impair DEF's business operations.</p> <p>§366.093(3)(d), Fla. Stat. The document portions in question contain confidential contractual information, the disclosure of which would impair DEF's efforts to contract for goods or services on favorable terms.</p> <p>§366.093(3)(e), Fla. Stat. The document portions in question contain confidential information relating to competitive business interests, the disclosure of which would impair the competitive business of the provider/owner of the information.</p>
Duke Energy Florida, Inc.'s Responses to NRG Florida LP's Fourth Request for Production No. 36, Bates No. 14LGBRA-NRGPOD-4-000078 through 14LGBRA-NRGPOD-4-000079	Entire Document	<p>366.093(3)(a), Fla. Stat. The document in question contains proprietary confidential information relating to trade secrets, the disclosure of which would impair DEF's business operations.</p> <p>§366.093(3)(d), Fla. Stat. The document portions in question contain confidential contractual information, the disclosure of which would impair DEF's efforts to contract for goods or services on</p>

**DUKE ENERGY FLORIDA
DOCKET NO. 140111-EI
Twelfth Request for Confidential Classification
Confidentiality Justification Matrix**

DOCUMENT	PAGE/LINE/ COLUMN	JUSTIFICATION
		favorable terms. §366.093(3)(e), Fla. Stat. The document portions in question contain confidential information relating to competitive business interests, the disclosure of which would impair the competitive business of the provider/owner of the information.