

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Nuclear cost recovery clause.

DOCKET NO. 140009-EI
ORDER NO. PSC-14-0408-PCO-EI
ISSUED: August 8, 2014

ORDER GRANTING DUKE ENERGY FLORIDA, INC.'S
MOTION FOR TEMPORARY PROTECTIVE ORDER

On June 28, 2011, pursuant to Section 366.093, Florida Statutes (F.S.), and Rule 25-22.006(6)(c), Florida Administrative Code (F.A.C.), Duke Energy Florida, Inc. (DEF or Company) filed a Motion for Temporary Protective Order (Document No. 04441-11) to exempt from Section 119.07(1), F.S., certain confidential information while the material is in the possession of the Office of Public Counsel (OPC). Section 366.093(2), F.S., directs that all records produced pursuant to a discovery request for which proprietary confidential status is requested shall be treated by any party subject to the public records law as confidential and exempt from the public records law, Section 119.07(1), F.S. Rule 25-22.006(6), F.A.C., codifies the Florida Public Service Commission's (Commission) policy regarding the protection of confidential information from public disclosure during the discovery process in a manner that is not overly burdensome to both parties. Rule 25-22.006(6)(a) F.A.C., in pertinent part, states:

In any formal proceeding before the Commission, any utility or other person may request a protective order protecting proprietary confidential business information from discovery. Upon a showing by a utility or other person and a finding by the Commission that the material is entitled to protection, the Commission shall enter a protective order limiting discovery in the manner provided for in Rule 1.280, Florida Rules of Civil Procedure.

In addition, Rule 25-22.006(6)(c), F.A.C., states that if a party allows OPC to inspect or take possession of utility information, then that "utility may request a temporary protective order exempting the information from section 119.07(1), F.S." The Rule further requires the utility to file a specific request for a protective order under paragraph (a) of the Rule if the information is to be used in the proceeding before the Commission.

DEF is seeking the protection of confidential information contained in the deposition transcript of DEF witness John Elnitsky, which was taken by OPC on June 17, 2011. The transcript contains and includes proprietary and confidential information that could impair DEF's competitive business interests if publicly disclosed. The transcript also contains contractual data such as cost information, the disclosure of which would impair the Company's ability to contract on favorable terms and, in many cases, the information is considered a trade secret and would violate contractual confidentiality provisions. DEF affirms that it has been authorized by counsel for OPC to represent that OPC does not object to the granting of this motion, but OPC does retain its right to contest confidentiality if warranted.

Upon consideration, DEF's Motion for Temporary Protective Order is granted. DEF has asserted that the material should be protected from disclosure pursuant to Rule 25-22.006(6)(c), F.A.C.

Based on the foregoing, it is hereby

ORDERED by Commissioner Julie I. Brown, as Prehearing Officer, that Duke Energy Florida, Inc.'s Motion for Temporary Protective Order is granted, as set forth herein.

By ORDER of Commissioner Julie I. Brown, as Prehearing Officer, this 8th day of August, 2014.



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.

MTL

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.