

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Nuclear cost recovery clause.

DOCKET NO. 140009-EI  
ORDER NO. PSC-14-0637-CFO-EI  
ISSUED: October 31, 2014

ORDER GRANTING DUKE ENERGY FLORIDA, INC.'S REQUEST FOR CONFIDENTIAL CLASSIFICATION (DOCUMENT NO. 02750-12)

On April 30, 2012, pursuant to Section 366.093, Florida Statutes (F.S.), and Rule 25-22.006, Florida Administrative Code (F.A.C.), Duke Energy Florida, Inc. (DEF or Company) filed a Request for Confidential Classification (Request) of portions of the testimony and exhibits filed as part of its April 30, 2012 Filing, specifically, portions of the testimony of Thomas G. Foster and Exhibits TGF-1, TGF-2, TGF-3, TGF-4, and TGF-5; and portions of the testimony of John Elnitsky and Exhibits JE-1 and JE-7. This Request was filed in Docket No. 120009-EI.

Request for Confidential Classification

DEF contends that the information provided in its filing on April 30, 2012, Document No. 02750-12, as more specifically described in Appendix C attached to DEF's Request, constitutes proprietary confidential business information entitled to protection under Section 366.093, F.S., and Rule 25-22.006, F.A.C. DEF affirms that this information is intended to be and is treated by DEF as private and has not been publicly disclosed.

DEF contends that the testimony of Mr. Foster, as well as portions of the testimony and exhibits of Mr. Elnitsky contain confidential, proprietary business information regarding the purchase of equipment, materials, and services necessary for the construction and operation of the Levy Nuclear Project (LNP) and the Crystal River Unit 3 (CR3) Power Uprate Project ("CR3 Uprate" and collectively with the LNP the "Nuclear Projects"). More specifically, portions of the NFRs Exhibits TGF-1, TGF-2, TGF-3, TGF-4, and TGF-5 to Mr. Foster's testimony contain confidential and sensitive contractual terms and conditions and numbers regarding both projects, the disclosure of which would impair DEF's competitive business interests and ability to negotiate favorable contracts, as well as violate contractual nondisclosure provisions of these contracts.

DEF asserts that the testimony of Mr. Elnitsky contains confidential contractual numbers and terms under the Company's Engineering, Procurement, and Construction contract (EPC Agreement) with Westinghouse, Shaw, Stone & Webster as well as cost numbers and information relating to decisions regarding disposition of items of Long Lead Equipment for the CR3 Power Uprate Project. In addition, Exhibit JE-I to Mr. Elnitsky's testimony is the Company's Revision 4 Integrated Project Plan which contains confidential contractual numbers and terms and risk evaluations under the EPC Agreement and competitive business information regarding the disposition of Long Lead Equipment. DEF contends that all of these documents

contain contractual quantities, timing, pricing arrangements and payments made between DEF and third parties that would adversely impact DEF's competitive business interests if disclosed to the public. DEF argues that this information is protected 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, 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 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. 02750-12 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, Inc.'s Request for Confidential Classification of Document No. 02750-12 is granted. It is further

ORDERED that the information in Document No. 02750-12, 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 Julie I. Brown, as Prehearing Officer, this 31st day of October, 2014.



JULIE I. BROWN  
Commissioner and Prehearing Officer  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, Florida 32399  
(850) 413-6770  
[www.floridapsc.com](http://www.floridapsc.com)

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.