

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for determination of need for
Citrus County combined cycle power plant, by
Duke Energy Florida, Inc.

DOCKET NO. 140110-EI
ORDER NO. PSC-14-0446-CFO-EI
ISSUED: August 25, 2014

ORDER GRANTING DUKE ENERGY FLORIDA, INC.'S REQUEST FOR CONFIDENTIAL
CLASSIFICATION (DOCUMENT NO. 03580-14)

On June 17, 2014, 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) filed a request for confidential classification of information (Request) concerning Calpine Construction Finance Utility, L.P.'s First Set of Interrogatories (Nos. 1-9) and DEF's responses to Calpine Construction Finance Utility, L.P.'s First Request for Production of Documents (No. 1). Specifically, DEF is seeking confidential classification of its response to Interrogatory No. 2 and documents responsive to Interrogatories Nos. 5, 6 and 7. Documents responsive to Calpine Construction Finance Utility, L.P.'s First Request for Production of Documents (No. 1) are duplicative of the documents provided in response to Interrogatories Nos. 5, 6 and 7. This Request was filed in Docket No. 140110-EI.

Request for Confidential Classification

DEF contends that the information provided in its filing on June 17, 2014, as more specifically described in Exhibit 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 argues that this information is intended to be and is treated by DEF as private and has not been publicly disclosed.

DEF is requesting confidential classification of the responsive information to Calpine's First Set of Interrogatories to DEF Nos. 1-9 and Calpine's First Request for Production of Documents No. 1, because the responses contain proprietary and confidential competitive business information, internal workpapers, information reports, including information concerning contractual data and competitively sensitive commercial information and bidder data, the disclosure of which would adversely impact DEF's competitive business interests. In many cases, the information constitutes trade secrets of the Utility and its contract partners. The Utility 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. If third parties were made aware of confidential contractual terms and conditions that the Utility 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 contracts between DEF and these contractors, the Utility's efforts to obtain competitive contracts would be undermined.

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 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 Utility as private, in that disclosure of the information would cause harm to the Utility'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. The information also contains information relating to competitive interests, the disclosure of which would impair the competitive business of the provider of said information. Therefore, the information identified in Document No. 03580-14 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 Ronald A. Brisé, as Prehearing Officer, that Duke Energy Florida Inc.'s Request for Confidential Classification is granted. It is further

ORDERED that the information identified in Document No. 03580-14 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 Ronald A. Brisé, as Prehearing Officer, this 25th day of August, 2014.



RONALD A. BRISÉ

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.

Any party adversely affected by the Commission's final action in this matter may request: 1) reconsideration of the decision by filing a motion for reconsideration with the Office of Commission Clerk, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, within fifteen (15) days of the issuance of this order in the form prescribed by Rule 25-22.060, 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 and/or wastewater utility by filing a notice of appeal with the Office of Commission Clerk, and filing a copy of the notice of appeal and the filing fee with the appropriate court. This filing must be completed within thirty (30) days after the issuance of this order, pursuant to Rule 9.110, Florida Rules of Appellate Procedure. The notice of appeal must be in the form specified in Rule 9.900(a), Florida Rules of Appellate Procedure.