

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for determination of cost
effective generation alternative to meet need
prior to 2018, by Duke Energy Florida, Inc.

DOCKET NO. 140111-EI
ORDER NO. PSC-14-0580-CFO-EI
ISSUED: October 14, 2014

ORDER GRANTING NRG FLORIDA L.P.'S
REQUEST FOR CONFIDENTIAL CLASSIFICATION (DOCUMENT NO. 04895-14)

On September 2, 2014, pursuant to Section 366.093, Florida Statutes (F.S.), and Rule 25-22.006, Florida Administrative Code (F.A.C.), NRG Florida L.P. (NRG), filed a request for certain documents provided in response to the Florida Public Service Commission (Commission) staff's First Request for Production of Documents (No. 1). Specifically, Commission staff requested "a copy of the NRG proposal concerning the Osceola facility" and "any documents and analyses related to the proposal or any discussion concerning the consideration, acceptance or rejection of said proposal." In response, NRG provided a series of over 50 confidential emails and attached documents, Bates numbered beginning "NRG Doc. 44-001228 (Staff POD 1)" and ending "NRG Doc. 44-001330 (Staff POD 1)". This Request was filed in Docket No. 140111-EI

Request for Confidential Classification

NRG contends that the information provided in its filing on September 2, 2014, as more specifically described in Exhibit C attached to NRG's Request, constitutes proprietary confidential business information entitled to protection under Section 366.093, F.S., and Rule 25-22.006, F.A.C. NRG argues that this information is intended to be and is treated by NRG as private and has not been publicly disclosed.

NRG is requesting confidential classification of these confidential documents because the confidential information in the documents provided by NRG is entitled to protection under Section 366.093(1), F.S. and meets the definition provided in Section 366.093(3), F.S. Each document contains proprietary and confidential competitive business information; trade secrets and information concerning bids or other contractual data, the disclosure of which would impair efforts to contract for goods or services on favorable terms; and competitively sensitive commercial information, the disclosure of which would adversely impact NRG's competitive business interests. The information is owned or controlled by NRG, which has treated the information for which protection is sought as confidential. Disclosure of the confidential information would cause harm to NRG's business operations.

Ruling

Section 366.093(1), F.S., provides that records the 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 NRG 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. 04895-14 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 NRG 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 NRG Florida L.P.'s Request for Confidential Classification is granted. It is further

ORDERED that the information identified in Document No. 04895-14 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 14th day of October, 2014.


RONALD A. BRISE
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.