

.BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for determination that the Osprey Plant acquisition or, alternatively, the Suwannee Simple Cycle Project is the most cost effective generation alternative to meet remaining need prior to 2018, by Duke Energy Florida, Inc.

DOCKET NO. 150043-EI
ORDER NO. PSC-15-0167-CFO-EI
ISSUED: May 1, 2015

ORDER GRANTING DUKE ENERGY FLORIDA, INC.'S
REQUEST FOR CONFIDENTIAL CLASSIFICATION
(DOCUMENT NO. 01088-15, X-REF DOCUMENT NO. 00685-15)

On February 20, 2015, 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 (Request) of portions of the testimony and exhibits filed as part of its Petition to initiate this docket, specifically, portions of the direct testimony of Benjamin M.H. Borsch and Exhibits BMGB-1 and BMGB-2; portions of Exhibits KED-1 through KED-3 to the direct testimony of Keven E. Delehanty; portions of the testimony of Kris G. Edmondson and Exhibits KGE-2 and KGE-3; portions of the direct testimony of Mark E. Landseidel and Exhibit MEL-4; portions of the direct testimony of Matthew E. Palasek and Exhibits MEP-1 and MEP2; and portions of Exhibit ELS-1 to the direct testimony of Edward L. Scott (Document No. 01088-15, x-ref Document No. 00685-15).

Request for Confidential Classification

In its Request, DEF contends that the information for which it requests confidential classification, as more specifically described in Attachment C of its Request, constitutes proprietary and confidential business information entitled to protection under Section 366.093, F.S., and Rule 25-22.006, F.A.C. DEF asserts that this information is intended to be and is treated by DEF and Calpine Construction Finance Company, L.P. (Calpine) as private and has not been publicly disclosed.

DEF further contends that the portions of the testimony of its witnesses and exhibits identified above contain confidential, proprietary business information regarding competitively sensitive business negotiations between DEF and Calpine and competitively sensitive contractual terms of the Parties' Asset Purchase and Sale Agreement (APA) and term sheet, the disclosure of which would impair DEF's competitive business interests. DEF also contends that the information contains numbers regarding the supply-side generation proposal evaluated by DEF to meet its remaining needs prior to 2018, the disclosure of which would impair DEF's competitive business interests and ability to negotiate favorable contracts, as well as violate the nondisclosure provisions of the bids submitted in response to DEF's Request for Proposal. In addition, DEF asserts that portions of the information contain material related to its long-term forecasts for fuel pricing, which would adversely impact DEF's competitive business interests if

disclosed. Furthermore, DEF contends that this information also contains material related to DEF's future forecasts for operating and maintenance costs for the Osprey Plant, its due diligence review of the Osprey Plant, the projected schedule for completion of the Suwannee Simple Cycle project as an alternative to the Osprey Plant acquisition, and a description of the potential generating facility acquisitions for transmission cost impacts to the DEF transmission system. DEF argues that this information contains contractual data and trade secrets and is competitively sensitive information, which is therefore entitled to confidential classification pursuant to Section 366.093(3)(a), (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 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. Additionally, Section 366.093(3), F.S., provides that proprietary confidential business information includes, but is not limited to:

(a) Trade secrets.

(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 described above, and in DEF's Request, contains information concerning trade secrets, bids or other contractual data, the disclosure of which would impair the efforts of DEF 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. 01088-15, x-ref Document No. 00685-15, 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. 01088-15, x-ref Document No. 00685-15, is granted. It is further

ORDERED that the information in Document No. 01088-15, x-ref Document No. 00685-15, 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 1st day of May, 2015.



JULIE I. BROWN
Commissioner and Prehearing Officer
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399
(850) 413-6770
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.

JIB:CWM

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.