

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for approval to include in base rates the revenue requirement for the CR3 regulatory asset, by Duke Energy Florida, Inc.

DOCKET NO. 150148-EI
ORDER NO. PSC-15-0283-CFO-EI
ISSUED: July 10, 2015

ORDER GRANTING DUKE ENERGY FLORIDA, INC.'S
REQUEST FOR CONFIDENTIAL CLASSIFICATION
DOCUMENT NOS. 03645-15, X-REF. 03083-15

On June 11, 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 information contained in portions of testimony and exhibits to its Petition for Approval to Include in Base Rates the Revenue Requirement for the CR3 Regulatory Asset (Document No. 03645-15) filed on May 22, 2015. DEF asserts that portions of the information contained in the testimony and exhibits, described with specific justification in Exhibit 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 further asserts that the information is intended to be and is treated as private by DEF, and has not been publically disclosed. DEF, therefore, requests that the Commission grant confidential classification for the documents for a period of 18 months from the date of the issuance of this Order, pursuant to Section 366.093(4), F.S.

Requests for Confidential Classification

Section 366.093(1), F.S., provides that “any records received by the Commission which are shown and found by the Commission to be proprietary confidential business information shall be kept confidential and shall be exempt from Section 119.07(1) [the Public Records Act].” Pursuant to Section 366.093(3), F.S., proprietary confidential business information includes 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. Pursuant to Section 366.093(3), confidential business information includes, but is not limited to, the following:

- “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; and
- “Information relating to competitive interests, the disclosure of which would impair the competitive business of the provider of the information.”
Id. at (d)-(e).

A. Testimony of Mark Teague and Exhibit No. MT-4

DEF contends that portions of the information contained in the testimony of Mark Teague and Exhibit No. MT-4, described with specific justification in Exhibit C of its Request, constitutes “proprietary confidential business information” under Section 366.93(3), F.S.

DEF contends that the information relates to negotiated contractual and cost information that DEF treats as proprietary confidential business information, proprietary business evaluation and risk operational information, as well as competitive interest and purchasing information. DEF argues that disclosure of the information would impair its efforts to negotiate contracts to the benefit of its customers, and adversely impair its competitive interests. Based on the foregoing reasons, DEF asserts that the information is entitled to confidential classification pursuant to Section 366.093(d) and (e), F.S.

B. Testimony of Marcia Oliver and Exhibit No. MO-5 and MO-6

DEF contends that portions of the information contained in the testimony of Marcia Oliver and Exhibit Nos. MO-5 and MO-6, described with specific justification in Exhibit C of its Request, constitutes “proprietary confidential business information” under Section 366.93(3), F.S.

DEF contends that the information relates to negotiated contractual and cost information that DEF treats as proprietary confidential business information, proprietary business evaluation and risk operational information, as well as competitive interest and purchasing information. DEF argues that disclosure of the information would impair its efforts to negotiate contracts to the benefit of its customers, and adversely impair its competitive interests. Based on the foregoing reasons, DEF asserts that the information is entitled to confidential classification pursuant to Section 366.093(d) and (e), F.S.

Ruling

Upon review, it appears that, except for Page 2 of 7, of Exhibit No. MT-4¹, the portions of the Testimony of Mark Teague and Exhibit No. MT-4 described in Exhibit C of DEF’s Request for Confidential Classification satisfy the criteria set forth in Section 366.093(3), F.S., for classification as proprietary confidential business information. Except for Page 2 of 7 of Exhibit No. MT-4, the portions of the Testimony of Mark Teague and Exhibit No. MT-4 described in Exhibit C of DEF’s Request for Confidential Classification appear to contain information concerning contractual data, the disclosure of which would impair the efforts of the Company to contract for goods or services on favorable terms, and/or competitive interests, the disclosure of which would impair the competitive business of the provider of the information.

¹ I find that Page 2 of 7 of Exhibit No. MT-4, is essentially a signature page that does not reveal any information that would result in harm to DEF or its ratepayers if publically disclosed.

It also appears that the portions of the Testimony of Marcia Oliver and Exhibit Nos. MO-5 and MO-6 described in Exhibit C of DEF's Request for Confidential Classification satisfy the criteria set forth in Section 366.093(3), F.S., for classification as proprietary confidential business information. The portions of the Testimony of Marcia Oliver and Exhibit Nos. MO-5 and MO-6 described in Exhibit C of DEF's Request for Confidential Classification appear to contain information concerning contractual data, the disclosure of which would impair the efforts of the Company to contract for goods or services on favorable terms, and/or competitive interests, the disclosure of which would impair the competitive business of the provider of the information.

Therefore, except for Page 2 of 7, of Exhibit No. MT-4, the portions of the Testimony of Mark Teague and Marcia Oliver as well as Exhibit Nos. MT-4, MO-5 and MO-6, the information identified in Document No. 03645-15 (x-ref. DN 03083-15), as specifically described in Exhibit C of DEF's Request for Confidential Classification information, shall be granted confidential classification pursuant to Section 366.093(3), F.S.

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

ORDERED by Commissioner Ronald A. Brisé, as Prehearing Officer, that, except for Page 2 of 7, of Exhibit No. MT-4, Duke Energy Florida, Inc.'s Request for Confidential Classification of Document No. 03645-15 (x-ref. DN 03083-15), as detailed in Exhibit C of its Request, is granted. It is further

ORDERED that the information in Document No. 03645-15 (x-ref. DN 03083-15), for which confidential classification has been granted shall remain protected from disclosure for a period of 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 Duke Energy Florida, Inc. or another affected person shows, and the Commission finds, that the records continue to contain proprietary confidential business information. 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 10th day of July, 2015.



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.

KFC

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.