

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Duke Energy, Inc.'s request for confidential classification of document request responses and portions of audit staff's draft report entitled Coal Combustion Residual Storage and Disposal Processes of the Florida Electric Industry.

DOCKET NO. 110323-EI
ORDER NO. PSC-15-0380-CFO-EI
ISSUED: September 11, 2015

ORDER GRANTING DUKE ENERGY FLORIDA, LLC'S SECOND REQUEST FOR
EXTENSION OF CONFIDENTIAL CLASSIFICATION OF DOCUMENT NO. 08613-11
(CROSS REF. 00052-12) AND CLOSING DOCKET

On November 23, 2011, pursuant to Section 366.093, Florida Statutes (F.S.), and Rule 25-22.006, Florida Administrative Code (F.A.C.), Progress Energy Florida, now Duke Energy Florida, LLC (DEF or company) filed a request for confidential classification of certain information contained in the December 2011 "Review of Coal Combustion Residual Storage and Disposal Processes of the Florida Electric Industry" (Report) prepared by the Commission's Office of Auditing and Performance Analysis, and for portions of the company's Responses to Data Request 2. These materials are contained in Document No. 08613-11 (cross ref. 00052-12). By Order No. PSC-12-0036-CFO-EI, issued January 24, 2012, the Commission granted the request upon finding that these materials satisfied the criteria set forth in Section 366.093(3), F.S., for classification as proprietary confidential business information. The Commission ordered that the materials be protected from disclosure for a period of 18 months.

On December 16, 2013, DEF filed its First Request for Extension of Confidential Classification of the materials subject to this request. By Order No. PSC-14-0048-CFO-EI, issued January 23, 2014, the extension was granted. The company was instructed that at the conclusion of the additional 18-month period, the confidential information would 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.

On July 22, 2015, DEF filed its Second Request for Extension of Confidential Classification of the materials contained in Document No. 08613-11 (cross ref. 00052-12). DEF states that nothing has changed since the issuance of Order No. PSC-12-0036-CFO-EI to render the confidential information public, and thus requests that all of the information contained in Document No. 08613-11 (cross ref. 00052-12) remain confidential for at least an additional 18-month period, as provided in Section 366.093(4), F.S., and that the information be returned as soon as it is no longer necessary for the Commission to conduct its business.

DEF adopts and incorporates by reference its November 23, 2011 request for confidential classification, including Exhibits A, B, and C attached to that request. Exhibit A contains a sealed, unredacted copy of all the pages of the Report and portions of the company's responses

to Data Request 2, for which it seeks confidential treatment. In Exhibit A, the information asserted to be confidential is highlighted. Exhibit B contains two copies of a redacted version of the documents for which continued confidential treatment is sought. In Exhibit B, the information asserted to be confidential is blocked out by opaque marker or other means. Exhibit C contains the company's justifications for the confidential treatment of the above-described information and is attached to this Order as Attachment A. DEF included an affidavit of its Manager of Byproducts & Reagents, CCP Operations & Maintenance, signed and dated July 22, 2015, in support of this request.

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 [the Public Records Act]." 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(3)(c) and (e), F.S., provides that proprietary confidential business information includes, but is not limited to "[s]ecurity measures, systems, or procedures," and "[i]nformation relating to competitive interests, the disclosure of which would impair the competitive business of the provider of the information."

DEF contends that the information falls within these categories and thus constitutes proprietary confidential business information entitled to protection under Section 366.093, F.S., and Rule 25-22.006, F.A.C. DEF states and affirms by affidavit that this information is intended to be and is treated by DEF as private and has not been publicly disclosed.

Upon review, it appears that the above-referenced information continues to satisfy the criteria set forth in Section 366.093(3), F.S., for classification as proprietary confidential business information and shall be treated as confidential. The information constitutes "[s]ecurity measures, systems, or procedures," and "[i]nformation relating to competitive interests, the disclosure of which would impair the competitive business of the provider of the information." Thus, this information is 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 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 Lisa Polak Edgar, as Prehearing Officer, that Duke Energy Florida, LLC's Second Request for Extension of Confidential Classification of Document No. 08613-11 (cross ref. 00052-12) is granted. It is further

ORDERED that Attachment A to this Order is incorporated herein by reference. It is further

ORDERED that the information in Document No. 08613-11 (cross ref. 00052-12) 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. 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. It is further

ORDERED that this docket shall be closed.

By ORDER of Commissioner Lisa Polak Edgar, as Prehearing Officer, this 11th day of September, 2015.



LISA POLAK EDGAR
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.

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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.

Exhibit C

**PROGRESS ENERGY FLORIDA
 Confidentiality Justification Matrix**

DOCUMENT/RESPONSES	PAGE/LINE	JUSTIFICATION
PEF's Responses to Data Request 2 (DR-2)	Revised Exhibits 9, 10 & 11 submitted on 9/19/11: disposal costs and sales revenues.	<p>§366.093(3)(c), F.S. The document in question contains confidential information, the disclosure of which would impair PEF's security measures, systems or procedures.</p> <p>§366.093(3)(e), F.S. The document in question contains confidential information relating to competitive business interests, the disclosure of which would impair the competitive business of the provider/owner of the information.</p>
FPSC's Review of Coal Combustion Residual Storage and Disposal Processes of the Florida Electric Industry	<p>Page 4, Executive Summary, last ¶: revenues in lines 2 & 4</p> <p>Page 7, Overview of Operational Compliance, Exhibit 1: PEF's disposal costs and revenues.</p> <p>Section 4.0, Page 1, Exhibit 6: PEF's disposal costs and revenues.</p> <p>Section 4.0, Page 2, Exhibit 8: PEF's disposal costs and revenues.</p>	<p>§366.093(3)(c), F.S. The document in question contains confidential information, the disclosure of which would impair PEF's security measures, systems or procedures.</p> <p>§366.093(3)(e), F.S. The document in question contains confidential information relating to competitive business interests, the disclosure of which would impair the competitive business of the provider/owner of the information.</p>