

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Nuclear cost recovery clause.

DOCKET NO. 150009-EI
ORDER NO. PSC-15-0545-CFO-EI
ISSUED: November 24, 2015

ORDER GRANTING DUKE ENERGY FLORIDA, LLC'S REQUEST FOR EXTENSION OF
CONFIDENTIAL CLASSIFICATION (DOCUMENT NO. 01092-13)

On July 24, 2015, pursuant to Section 366.093, Florida Statutes (F.S.), and Rule 25-22.006, Florida Administrative Code (F.A.C.), Duke Energy Florida, LLC (DEF) filed its First Request for Extension of Confidential Classification (Request) of portions of certain testimony and exhibits of Thomas G. Foster and testimony of Christopher M. Fallon filed in Docket No. 130009-EI (Hearing Exhibits) (Document No. 01092-13). This Request was filed in Docket No. 150009-EI.

Request for Confidential Classification

DEF's original request for confidential treatment of information provided in the hearing exhibits was granted by Order No. PSC-14-0064-CFO-EI, issued January 29, 2014. DEF maintains that certain documents identified in its request contains proprietary and confidential business and financial information, including contractual terms and costs. DEF has not disclosed the information to the public, and continues to follow strict procedures to maintain the confidentiality of the information, including restricting access to those persons who need the information to assist DEF.

DEF's Request incorporates by reference and adopts the arguments propounded in its original request. Specifically, DEF asserts that the hearing exhibits contain information regarding the contract for the equipment, materials, and services for the Levy Nuclear Project and the Crystal River Unit 3 Power Uprate Project (collectively the Nuclear Projects). DEF asserts that public disclosure of this information would reveal what DEF is willing to pay or accept as payment for certain goods and/or services, which could allow potential suppliers, vendors, and/or purchasers of such services to change their position in future negotiations with DEF.

DEF also contends that the hearing exhibits contain confidential and sensitive contractual information and cost regarding the Nuclear Projects, the disclosure of which would impair DEF's competitive business interests and ability to negotiate favorable contracts in the future and violate contractual nondisclosure provisions within those contracts. DEF argues that the hearing exhibits are entitled to protection under Section 366.93(d) and (e), F.S. DEF asserts that nothing has changed since the issuance of the original order that would render the information stale or public, such that continued confidential treatment would no longer be appropriate.

Ruling

Section 366.093(1), F.S., provides that records that the Florida Public Service Commission (Commission) has found to contain proprietary confidential business information shall be kept confidential and shall 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 DEF as private, in that disclosure of the information would cause harm to DEF's ratepayers or business operations, and that has not been voluntarily disclosed to the public. Section 366.093(3), F.S., provides, in pertinent part, 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 continued classification as proprietary confidential business information. The information described above 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 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. 01092-13 shall be granted a continuation of 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 Chairman Art Graham, as Prehearing Officer, that Duke Energy Florida, LLC's Request for Extension of Confidential Classification is granted. It is further

ORDERED that the information contained in Document No. 01092-13, 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 will be the only notification by the Commission to the parties concerning the expiration of the confidentiality time period.

By ORDER of Chairman Art Graham, as Prehearing Officer, this 24th day of November, 2015.



ART GRAHAM
Chairman 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.

KRM

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.