

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

In re: Petition for issuance of nuclear asset-recovery financing order, by Duke Energy Florida, Inc. d/b/a Duke Energy.

DOCKET NO. 150171-EI  
ORDER NO. PSC-15-0590-CFO-EI  
ISSUED: December 29, 2015

ORDER GRANTING DUKE ENERGY FLORIDA, LLC'S MODIFIED  
EIGHTH REQUEST FOR CONFIDENTIAL CLASSIFICATION  
(DOCUMENT NO. 07694-15)

On September 17, 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 Eighth Request for Confidential Classification (Request) of certain information provided in its Responses to Staff's Second Set of Interrogatories (Nos. 8-39). The materials subject to this request were submitted as sealed Composite Exhibit A, and contained in Document No. 05803-15 (x-ref. 05417-15).

Upon determining that portions of Document No. 05803-15 are available to the public, on December 3, 2015, DEF modified its Request, replacing Document No. 05803-15 with a modified sealed Exhibit A (Document No. 07694-15), to remove the publicly available information from the Request. Document No. 07694-15 contains a modified unredacted copy of all the documents for which DEF seeks confidential treatment, with the information asserted to be confidential highlighted in yellow. DEF also submitted a modified Composite Exhibit B, containing two copies of redacted versions of the documents for which the company requests confidential classification, a modified Exhibit C (justification matrix), and a modified Exhibit D (Affidavit).

DEF's line-by-line justifications for the confidential treatment of the above-described requested information are contained in Attachment A to this Order, which is incorporated herein by reference. DEF requests that these materials be granted confidential classification for a period of at least 18 months, 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.

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)(d) and (e), F.S., provides that proprietary confidential business information includes, but is not limited to “[i]nformation concerning bids or other contractual data, the disclosure of which would impair the efforts of the public utility or its affiliate to contract for goods or services on favorable terms,” 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 at issue 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 contends that the information relates to its engagement with Morgan Stanley & Co. LLC (Morgan Stanley), for financial advisory services, along with proposal information provided by Goldman Sachs and Morgan Stanley for underwriting, advisory and structuring services, the disclosure of which would adversely impact DEF’s competitive business interests. DEF further asserts that the information also relates to the competitive business interests of the parties negotiating financial agreements with DEF, the disclosure of which would impair their competitive businesses, and which DEF has contractually agreed to treat as confidential. DEF states 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 satisfies 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 “[i]nformation concerning bids or other contractual data, the disclosure of which would impair the efforts of the public utility or its affiliate to contract for goods or services on favorable terms,” 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 Ronald A. Brisé, as Prehearing Officer, that Duke Energy Florida, LLC’s Modified Eighth Request for Confidential Classification of Document No. 07694-15 is granted. It is further

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

ORDERED that the information contained in Document No. 07694-15 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. 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 29th day of December, 2015.



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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.

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.

**DUKE ENERGY FLORIDA – EXHIBIT C - Docket 150171-EI  
 Confidentiality Justification**

DOCUMENT/RESPONSES	PAGE/LINE	JUSTIFICATION
DEF Response to Staff's 2 <sup>nd</sup> Set of Interrogatories, Question #8	Attachment bearing Bates number 150148- STAFFROG2-8-000001, all bulleted lines on the page; all information contained in the table titled "Recent Underwriting Fees."	§366.093(3)(d), F.S. The document in question contains confidential information, the disclosure of which would impair DEF's efforts to contract for goods or services on favorable terms.  §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.
DEF Response to Staff's 2 <sup>nd</sup> Set of Interrogatories, Question #8	Attachment bearing Bates number 150148- STAFFROG2-8-000002, the entire page is confidential	§366.093(3)(d), F.S. The document in question contains confidential information, the disclosure of which would impair DEF's efforts to contract for goods or services on favorable terms.  §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.

DOCUMENT/RESPONSES	PAGE/LINE	JUSTIFICATION
DEF Response to Staff's 2 <sup>nd</sup> Set of Interrogatories, Question #8	Attachment bearing Bates number 150148-STAFFROG2-8-000003, all information contained in the table titled "Appendix B. Underwriting Fees."	<p>§366.093(3)(d), F.S.                      The document in question contains confidential information, the disclosure of which would impair DEF's efforts to contract for goods or services on favorable terms.</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>
DEF Response to Staff's 2 <sup>nd</sup> Set of Interrogatories, Question #8	Attachment bearing Bates number 150148-STAFFROG2-8-000004, the last sentence on the page.	<p>§366.093(3)(d), F.S.                      The document in question contains confidential information, the disclosure of which would impair DEF's efforts to contract for goods or services on favorable terms.</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>

DOCUMENT/RESPONSES	PAGE/LINE	JUSTIFICATION
DEF Response to Staff's 2 <sup>nd</sup> Set of Interrogatories, Question #8	Attachment bearing Bates number 150148-STAFFROG2-8-000005 through 150148-STAFFROG2-8-000007, the entire pages of the Morgan Stanley engagement letter.	<p>§366.093(3)(d), F.S.                      The document in question contains confidential information, the disclosure of which would impair DEF's efforts to contract for goods or services on favorable terms.</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>
DEF Response to Staff's 2 <sup>nd</sup> Set of Interrogatories, Question #8	Attachment bearing Bates number 150148-STAFFROG2-8-000009 through 150148-STAFFROG2-8-000010, the entire body of Exhibit A to Morgan Stanley's engagement letter.	<p>§366.093(3)(d), F.S.                      The document in question contains confidential information, the disclosure of which would impair DEF's efforts to contract for goods or services on favorable terms.</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>

DOCUMENT/RESPONSES	PAGE/LINE	JUSTIFICATION
DEF Response to Staff's 2 <sup>nd</sup> Set of Interrogatories, Question #34	Attachment bearing Bates number 150148- STAFFROG2-34-000001 the entire page.	§366.093(3)(d), F.S. The document in question contains confidential information, the disclosure of which would impair DEF's efforts to contract for goods or services on favorable terms.  §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.
DEF Response to Staff's 2 <sup>nd</sup> Set of Interrogatories, Question #34	Attachment bearing Bates number 150148- STAFFROG2-34-000002, the entire body of both tables including the footnote.	§366.093(3)(d), F.S. The document in question contains confidential information, the disclosure of which would impair DEF's efforts to contract for goods or services on favorable terms.  §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.