

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Nuclear cost recovery clause.

DOCKET NO. 160009-EI
ORDER NO. PSC-16-0228-CFO-EI
ISSUED: June 8, 2016

ORDER GRANTING DUKE ENERGY FLORIDA, LLC'S FIRST REQUEST FOR
EXTENSION OF CONFIDENTIAL CLASSIFICATION OF INFORMATION PROVIDED
PURSUANT TO AUDIT NOS. 14-007-2-1 and 14-007-2-2 (DOCUMENT NO. 03558-14)

On January 20, 2016, 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 documents provided pursuant to Audit Nos. 14-007-2-1 and 14-007-2-2 (audit workpapers) (Document No. 03558-14). This Request was filed in Docket No. 160009-EI.

Request for Confidential Classification

DEF's original request for confidential treatment of information provided pursuant to Audit Nos. 14-007-2-1 and 14-007-2-2 was granted by Order No. PSC-14-0379-CFO-EI, issued July 21, 2014. DEF contends that the designated portions of the audit workpapers constitute proprietary confidential business information entitled to continued protection under Section 366.093(3), F.S., and Rule 25-22.006, F.A.C. DEF avows that this information is intended to be and continues to be treated by DEF as private and has not been publicly disclosed.

DEF asserts that the information that was the subject of Order No. PSC-14-0379-CFO-EI warrants continued treatment as proprietary and confidential business information. DEF's request incorporates by reference and adopts the arguments propounded in its original request. Also included within DEF's request is Revised Exhibit D. Revised Exhibit D contains the affidavits of Mark Teague, Christopher M. Fallon, and Geoff Foster in support of DEF's request.

DEF contends that the audit workpapers contain confidential project management strategies and competitively sensitive information, the disclosure of which would impair the competitive interests of the provider of the information. DEF argues that this information should be protected under Sections 366.093(3), F.S. DEF asserts that the audit workpapers also contain information related to bids or contractual data, such as pricing or other terms for ongoing and future negotiations with vendors. DEF states that this information is entitled to protection pursuant to Section 366.093(3), F.S., because public disclosure would violate nondisclosure provisions of DEF's contracts with certain vendors, and impair DEF's ability to contract for goods or services on favorable terms in the future.

DEF further asserts that the audit workpapers contain internal audit information. DEF argues that this information should be protected under Section 366.093(3), F.S. DEF states that

this information is entitled to protection pursuant to Section 366.093(3)(b), F.S., because such information and documents are specifically defined in Section 366.093(3)(b), F.S., and the disclosure of the information would compromise the level of cooperation needed for efficient internal auditing.

DEF contends that nothing has changed since the filing of the original request to render the information stale or public, such that continued confidential treatment would not 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, and 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:

- (b) Internal auditing controls and reports of internal auditors.
- (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 internal auditing controls and reports of internal auditors, 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. 03558-14 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 Commissioner Art Graham, as Prehearing Officer, that Duke Energy Florida, LLC's Request for Extension of Confidential Classification of Document No. 03558-14 is granted. It is further

ORDERED that the information contained in Document No. 03558-14, 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 Commissioner Art Graham, as Prehearing Officer, this 8th day of June, 2016.



ART GRAHAM
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.

SAF

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.