

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for approval to include in base rates the revenue requirement for the Hines chillers uprate project, by Duke Energy Florida, LLC.

DOCKET NO. 160128-EI
ORDER NO. PSC-16-0303-CFO-EI
ISSUED: July 28, 2016

ORDER GRANTING DUKE ENERGY FLORIDA, LLC'S REQUEST FOR CONFIDENTIAL CLASSIFICATION (DOCUMENT NO. 05186-16)

On July 18, 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) requested confidential classification (Request) to certain information provided in response to Staff's Third Data Request (responses) (Nos. 1-3) (Document No. 05186-16). This Request was filed in Docket No. 160128-EI.

Request for Confidential Classification

DEF contends that the designated portions of the information contained in its responses, as more specifically identified by page, line and statutory basis in Exhibit C to its Request, fall within these categories and, thus, constitute proprietary confidential business information entitled to protection under Section 366.093, F.S., and Rule 25-22.006, F.A.C. DEF asserts that the information at issue relates to competitively negotiated costs and pricing data, the disclosure of which would impair the efforts of the Company or its affiliates to negotiate contracts on favorable terms. DEF asserts that if it cannot assure contracting parties that it can maintain the confidentiality of contractual terms, those parties and other similarly situated parties may forego entering contracts with DEF, which would adversely impact DEF's competitive business interest. DEF asserts that the information has not been disclosed to the public and DEF has treated and continues to treat the information at issue as confidential. DEF argues that such information is protected pursuant to Section 366.093(3)(d) and (e), F.S.

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:

(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 relate to competitively negotiated costs and pricing data, the disclosure of which would impair the efforts of the Company or its affiliates to negotiate contracts on favorable terms. As well as 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. 05186-16 shall be graded 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 Confidential Classification of Document No. 05186-16 is granted. It is further

ORDERED that the information contained in Document No. 05186-16, 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 28th day of July, 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.

DJ

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.