

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Fuel and purchased power cost recovery  
clause with generating performance incentive  
factor.

DOCKET NO. 160001-EI  
ORDER NO. PSC-16-0451-CFO-EI  
ISSUED: October 11, 2016

ORDER GRANTING DUKE ENERGY FLORIDA, LLC'S REQUEST FOR CONFIDENTIAL  
CLASSIFICATION (DOCUMENT NO. 05863-16)

On August 4, 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) for certain information provided in Exhibit CAM-2, specifically schedules E12-A, E-12B, and E-12C, to the direct testimony of Christopher A. Menendez (Document No. 05863-16). This request was filed in Docket No. 160001-EI.

Request for Confidential Classification

The information for which DEF requests confidential classification is identified by page and line in Exhibit C attached to the Request. Specifically, the information at issue relates to contractual cost data pertaining to the Calpine Osprey power purchase agreement and the sale of Batch 19 Nuclear Fuels. DEF asserts 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 interests and should be protected pursuant to § 366.093(3)(d), F.S.

DEF further contends the information at issue relates to the competitive interests of DEF, its power suppliers, and third parties purchasing DEF's assets (i.e., Batch 19 Nuclear Fuel), the disclosure of which would impair their competitive businesses and should be protected pursuant to § 366.093(3)(e), F.S.

Lastly, DEF asserts certain information under claim of confidentiality must be protected because disclosure of that information would allow other parties and the public to compute the confidential information discussed above (e.g., cost subtotals and totals), and therefore that information must be protected from public disclosure in order to protect the contractual information at issue. See § 366.093(3)(d). DEF contends such information constitutes "proprietary confidential business information" which is exempt from disclosure under the Public Records Act pursuant to Section 366.093(1), F.S.

Ruling

Section 366.093(1), F.S., provides that records the Florida Public Service Commission (Commission) has found to contain proprietary 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 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), F.S., provides 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 classification as proprietary confidential business information. The information constitutes "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" 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. 05863-16 shall be 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 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

ORDERED by Commissioner Art Graham, as Prehearing Officer, that Duke Energy Florida, LLC's Request for Confidential Classification of Document No. 05863-16 is granted. It is further

ORDERED that the information in Document No. 05863-16 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 Art Graham, as Prehearing Officer, this 11th day of October, 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.

DLH

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.