

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-17-0050-CFO-EI
ISSUED: February 10, 2017

ORDER GRANTING DUKE ENERGY FLORIDA, LLC'S EIGHTEENTH THROUGH TWENTIETH REQUESTS FOR CONFIDENTIAL CLASSIFICATION (DOCUMENT NOS. 01313-16, 04348-16, 08722-16, and 08952-16)

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 or Company) filed its Eighteenth through Twentieth Requests for Confidential Classification (Requests) of certain information provided to the Bond Team, which was established by Order No. PSC-15-0537-FOF-EI, issued November 19, 2015, in these consolidated dockets. DEF filed its Eighteenth Request on March 10, 2016, its Nineteenth Request on July 7, 2016, and its Twentieth Request on November 23, 2016. The materials that are subject to these Requests are contained in Document Nos. 01313-16, 04348-16, 08722-16, and 08952-16. 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.

Along with each of its Requests, DEF separately submitted a sealed Composite Exhibit A, containing an unredacted copy of all the documents for which DEF seeks confidential treatment. In each Exhibit A, the information asserted to be confidential is highlighted in yellow. DEF also submitted a Composite Exhibit B with each Request, containing two copies of redacted versions of the documents for which the Company requests confidential classification. In each Exhibit B, the specific information for which DEF requests confidential treatment has been blocked out by opaque marker or other means. DEF also submitted line-by-line justifications for the confidential treatment of the above-described requested information.

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), (e), and (f), 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,” “[i]nformation relating to competitive interests, the disclosure of which would impair the competitive business of the provider of the information,” and “[e]mployee personnel information unrelated to compensation, duties, qualifications, or responsibilities.”

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 the following securitization bond transaction activities: 1) DEF’s confidential agreement with Moody’s Investors Service to assign credit ratings to the securities issued in this matter (18th Request); 2) investor bond-allocation information, the disclosure of which would impair the efforts of DEF or its investors to obtain pricing on favorable terms (19th Request); and 3) DEF’s engagement with the law firms and consulting firms retained by DEF to work on the securitization, including rates and costs of the law firms and consulting firms, the disclosure of which would violate the terms of contractual agreements with third parties and impair the efforts of DEF to contract for goods and services on favorable terms. Portions of these documents also contain individual employee names, which DEF maintains as confidential in order to protect its employees’ individual right to privacy and to guard against being at a competitive disadvantage when seeking to hire and retain qualified employees and contractors (20th Request). DEF further asserts that disclosure of the information would also adversely impact the competitive business interests of parties contracting with DEF. 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,” “[i]nformation relating to competitive interests, the disclosure of which would impair the competitive business of the provider of the information,” and “[e]mployee personnel information unrelated to compensation, duties, qualifications, or responsibilities.” 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 Eighteenth, Nineteenth, and Twentieth Requests for Confidential Classification of Document Nos. 01313-16, 04348-16, 08722-16, and 08952-16 are granted. It is further

ORDERED that the information contained in Document Nos. 01313-16, 04348-16, 08722-16, and 08952-16 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 Ronald A. Brisé, as Prehearing Officer, this 10th day of February, 2017.



RONALD A. BRISÉ
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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.

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.