

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

FILED 12/20/2019
DOCUMENT NO. 11424-2019
FPSC - COMMISSION CLERK

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

DOCKET NO. 20190001-EI
ORDER NO. PSC-2019-0542-CFO-EI
ISSUED: December 20, 2019

ORDER GRANTING REQUEST FOR CONFIDENTIAL CLASSIFICATION
(DOCUMENT NO. 11345-2019, X-REF. 11143-2019)

On December 17, 2019, 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 a Request for Confidential Classification (Request) of portions of late-filed Exhibit Nos. 2, 4, 5 and 6 to the deposition of Messrs. Swartz, Toms, and Salvarezza, held on August 29 and 30, 2019, and the Office of Public Counsel's (OPC) Fifth Request for Production of Documents No. 41 (Document No. 11345-2019). This material had previously been submitted on November 26, 2019, along with a Notice of Intent to Request Confidential Classification (Document No. 11143-2019).

Request for Confidential Classification

DEF contends that the information contained in Exhibit Nos. 2, 4, 5 and 6 and in OPC's Fifth Request for Production of Documents No. 41, more specifically described in Exhibit C to its Requests, constitutes proprietary confidential business information entitled to protection under Section 366.093, F.S., and Rule 25-22.006, F.A.C. DEF asserts that this information is intended to be and is treated by DEF as private and has not been publicly disclosed.

The information contained Exhibit No. 2 consist of meeting notes and project schedule documents for the Restoration Team. The information contained in Ex. No. 4 consists of drafts of the Root Cause Analysis (RCA) or other documentation from Periods 1 through 4 identified in the RCA. The information contained in Ex. No. 5 consists of drafts of the Executive Summary of the RCA. Exhibit No. 6 consists of Jake English's historical RCA information. Finally, DEF's response to OPC's Fifth Request for Production of Documents No. 41 consists of DEF's contract with Mitsubishi dated January 2, 2008, and the contract between Tenaska Power Equipment, LLC and Mitsubishi Power Systems, Inc. dated May 2002. Disclosure of these materials would reveal proprietary third-party owned information regarding component design and operation parameters which if disclosed would impair DEF's ability to contract for goods and services on favorable terms in the future as vendors would charge a "premium" if DEF could not protect their information. DEF argues that this information is protected by Sections 366.093(3)(d) and (e), 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 consists of proprietary third-party design and operating parameters as well as contact pricing which if disclosed would likely result in higher costs to DEF's ratepayers for goods and services. Thus, the information identified in Document No. 11345-2019, x-ref. 11143-2019, 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 hereby

ORDERED by Commissioner Gary F. Clark, as Prehearing Officer, that Duke Energy Florida, LLC's Request for Confidential Classification of Document No. 11345-2019, x-ref. 11143-2019, is granted, as set forth herein. It is further

ORDERED that the information in Document No. 11345-2019, x-ref. 11143-2019, 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 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 Gary F. Clark, as Prehearing Officer, this 20th day
of December, 2019.



GARY F. CLARK
Commissioner and Prehearing Officer
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399
(850) 413-6770
www.floridapsc.com

Copies furnished: A copy of this document is provided to the parties of record at the time of issuance and, if applicable, interested persons.

SBr

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.