

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for limited proceeding for recovery of incremental storm restoration costs related to Hurricane Michael and approval of second implementation stipulation, by Duke Energy Florida, LLC.

DOCKET NO. 20190110-EI
ORDER NO. PSC-2021-0025-CFO-EI
ISSUED: January 7, 2021

ORDER GRANTING DUKE ENERGY FLORIDA, LLC'S
REQUESTS FOR CONFIDENTIAL CLASSIFICATION
(DOCUMENT NOS. 03746-2020, 02144-2020, 04174-2020, AND 04840-2020)

On July 10, 2020, Duke Energy Florida, LLC (DEF or Company) filed a fifth request for confidential classification (Fifth Request) of information contained within the direct testimony and exhibits of the Office of Public Counsel's (OPC's) witness, Helmuth Schultz, III (Document No. 03746-2020). On July 30, 2020, DEF filed an amended second request for confidential classification (Amended Second Request) of information contained within DEF's Response to OPC's First Request for Production of Documents, Nos. 1-16; DEF's First, Second, Third, Fourth, and Fifth Supplements to DEF's Response to OPC's First Request for Production of Documents; and DEF's Response to OPC's First Set of Interrogatories, Nos. 1-39 (Document Nos. 02144-2020 and 04174-2020). On August 21, 2020, DEF filed a sixth request for confidential classification (Sixth Request) of information contained within DEF's responses to interrogatory numbers 155 and 163 of OPC's Sixth Set of Interrogatories to DEF, Nos. 154-170, and the documents produced with DEF's responses to request numbers 33, 34, and 41 of OPC's Fourth Request for Production of Documents, Nos. 28-41 (Document No. 04840-2020). All three of the requests for confidential classification were filed in Docket No. 20190110-EI, pursuant to Section 366.093, Florida Statutes (F.S.), and Rule 25-22.006, Florida Administrative Code (F.A.C.).

Fifth Request for Confidential Classification

DEF contends that the information contained within the direct testimony and exhibits of OPC's witness, Helmuth Schultz, III (Document No. 03746-2020), as more specifically described in Exhibit C attached to DEF's Fifth Request, constitutes proprietary and confidential business information entitled to protection under Section 366.093, F.S., and Rule 25-22.006, F.A.C. Exhibit C contains a table that identifies the specific portions of information for which DEF seeks confidential classification. DEF asserts that this information is intended to be and is treated by the Company as private, and has not been publicly disclosed.

DEF further contends that the information contained within the direct testimony and exhibits of OPC's witness, Helmuth Schultz, III, includes DEF's contractual rate information with third-party vendors, the disclosure of which would impair DEF's competitive business advantages. Given these facts, DEF argues that such information is entitled to confidential

classification pursuant to Section 366.093(3), F.S. DEF requests confidential classification of this information for a period of 18 months.

Amended Second Request for Confidential Classification

DEF contends that the information contained within the documents produced with DEF's Response to OPC's First Request for Production of Documents, Nos. 1-16; DEF's First, Second, Third, Fourth, and Fifth Supplements to DEF's Response to OPC's First Request for Production of Documents; and DEF's Response to OPC's First Set of Interrogatories, Nos. 1-39 (Document Nos. 02144-2020 and 04174-2020), as more specifically described in the amended Exhibit C attached to DEF's Amended Second Request, constitutes proprietary and confidential business information entitled to protection under Section 366.093, F.S., and Rule 25-22.006, F.A.C. Exhibit C contains a table that identifies the specific portions of information for which DEF seeks confidential classification. DEF asserts that this information is intended to be and is treated by the Company as private, and has not been publicly disclosed.

DEF further contends that portions of the information contained within the document produced with the Company's response to OPC's First Request for Production of Documents, Nos. 1-16; DEF's First, Second, Third, Fourth, and Fifth Supplements to DEF's Response to OPC's First Request for Production of Documents; and DEF's Response to OPC's First Set of Interrogatories, Nos. 1-39, includes the Company's internal policies and standards, as well as contractual rate information with third-party vendors, the disclosure of which would impair the Company's competitive business advantages. Given these facts, DEF argues that such information is entitled to confidential classification pursuant to Section 366.093(3), F.S. DEF requests confidential classification of this information for a period of 18 months.

Sixth Request for Confidential Classification

DEF contends that the information contained within the documents produced with DEF's responses to interrogatory numbers 155 and 163 of OPC's Sixth Set of Interrogatories to DEF Nos. 154-170, and the documents produced with DEF's responses to request numbers 33, 34, and 41 of OPC's Fourth Request for Production of Documents, Nos. 28-41 (Document No. 04840-2020), as more specifically described in Exhibit C attached to DEF's Sixth Request, constitutes proprietary and confidential business information entitled to protection under Section 366.093, F.S., and Rule 25-22.006, F.A.C. Exhibit C contains a table that identifies the specific portions of information for which DEF seeks confidential classification. DEF asserts that this information is intended to be and is treated by the Company as private, and has not been publicly disclosed.

DEF further contends that the information contained within the documents produced in the Company's responses to interrogatory numbers 155 and 163 of OPC's Sixth Set of Interrogatories to DEF, Nos. 154-170, and the documents produced with DEF's responses to request numbers 33, 34, and 41 of OPC's Fourth Request for Production of Documents, Nos. 28-41, includes the Company's contractual rate information with third-party vendors, the disclosure of which would impair the Company's competitive business advantages. Given these facts, DEF argues that such information is entitled to confidential classification pursuant to Section

366.093(3), F.S. DEF requests confidential classification of this information for a period of 18 months.

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 information and data provided in this request satisfies the criteria set forth in Subsection 366.093(3), F.S., for classification as proprietary confidential business information. The pricing and contract information with third-party vendors appear to be "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 Nos. 03746-2020, 02144-2020, 04174-2020, and 04840-2020 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 Andrew Giles Fay, as Prehearing Officer, that Duke Energy Florida, LLC's Requests for Confidential Classification of Document Nos. 03746-2020, 02144-2020, 04174-2020, and 04840-2020 are granted. It is further

ORDERED that the information in Document Nos. 03746-2020, 02144-2020, 04174-2020, and 04840-2020, 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. At the conclusion of the 18-month period, the confidential information will no longer be exempt from Section 119.07(1), F.S., unless Duke Energy Florida, LLC or another affected person shows, and the Commission finds, that the records continue to contain proprietary confidential business information. 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 Andrew Giles Fay, as Prehearing Officer, this 7th day of January, 2021.



ANDREW GILES FAY
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.

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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.