

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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

DOCKET NO. 20230001-EI  
ORDER NO. PSC-2023-0075-CFO-EI  
ISSUED: February 6, 2023

ORDER GRANTING DUKE ENERGY FLORIDA, LLC'S  
REQUEST FOR CONFIDENTIAL CLASSIFICATION  
(DOCUMENT NO. 09607-2022)

On November 9, 2022, 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 its Request for Confidential Classification (Request) of information contained in its supplemental response to Office of Public Counsel's (OPC) Second Request for Production of Documents No. 5 (Document No. 09607-2022). DEF filed its Notice of Intent to request confidentiality for this document on October 19, 2022 (Document No. 09595-2022).

Request for Confidential Classification

DEF contends that certain information contained in its supplemental response to OPC's Second Request for Production of Documents No. 5 (Document No. 09607-2022), is proprietary confidential business information within the meaning of Section 366.093(3), F.S., and requires confidential classification.

DEF contends that the information is proprietary and confidential business information within the meaning of Section 366.093(3), F.S. This information is intended to be and is treated as confidential by DEF, and the information has not been disclosed to the public. More specifically, the information contained in DEF's supplemental response to OPC's Second Request for Production of Documents No. 5 consists of OEM-provided operator's manuals for the Bartow CC Combustion Turbine Generators. DEF argues that disclosure of this information would negatively impact DEF's ability to negotiate for services at the least cost rate. Therefore, DEF contends that this information is protected by Section 366.093(3)(d), F.S. Further, releasing the equipment specifications and contract data would impair the competitive businesses of both DEF and the manufacturer of the generator in violation of Section 366.093(3)(e), F.S.

Ruling

Section 366.093(1), F.S., provides that records the 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 service 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 described above appears to be information concerning the operation and maintenance of its Bartow CC Combustion Turbine Generators, the disclosure of which could impair the competitive business of DEF and its supplier. Further, disclosure of this information could adversely affect DEF's future ability to negotiate contracts at the lowest price for repair services if companies are aware DEF must disclose that company's proprietary information. Thus, the information identified in Document No. 09607-2022, 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 Subsection 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 Mike La Rosa, as Prehearing Officer, that Duke Energy Florida, LLC's Request for Confidential Classification for the information contained in its supplemental response to OPC's Second Request for Production of Documents No. 5, Document No. 09607-2022, is granted. It is further

ORDERED that the information in Document No. 09607-2022, 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 Mike La Rosa, as Prehearing Officer, this 6th day of February, 2023.



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Mike La Rosa  
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.