

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for limited proceeding for recovery of incremental storm restoration costs related to Hurricanes Elsa, Eta, Isaias, Ian, Nicole, and Tropical Storm Fred, by Duke Energy Florida, LLC.

DOCKET NO. 20230020-EI
ORDER NO. PSC-2025-0034-CFO-EI
ISSUED: January 29, 2025

ORDER GRANTING DUKE ENERGY FLORIDA, LLC'S
MOTION FOR TEMPORARY PROTECTIVE ORDER

On December 5, 2023, pursuant to Section 366.093, Florida Statutes (F.S.), and Rule 25-22.006(6)(c) Florida Administrative Code (F.A.C.), Duke Energy Florida, LLC (DEF) filed a Motion for Temporary Protective Order (Motion) for PriceWaterhouseCoopers' audit work papers associated with the incremental storm restoration costs related to Hurricanes Elsa, Eta, Isaias, Ian, Nicole and Tropical Storm Fred which were requested by the Office of Public Counsel (OPC) in their Second Request for Production of Documents No 36. These work papers were provided directly to OPC by PriceWaterhouseCoopers and have never been filed with the Commission Clerk.

Motion for Temporary Protective Order

DEF seeks protection for the documents as provided in Subsection 366.093(2), F.S., and Rule 25-22.006(6), F.A.C. Subsection 366.093(2), F.S., directs that all records produced pursuant to a discovery request for which proprietary confidential status is requested shall be treated by any party subject to the public records law as confidential and exempt from the public records law. Subsection 119.07(1), F.S. Rule 25-22.006(6), F.A.C., codifies the Commission's policy regarding the protection of confidential information from public disclosure during the discovery process in a manner that is not overly burdensome to both parties. Rule 25-22.006(6)(a), F.A.C., in pertinent part, states:

In any formal proceeding before the Commission, any utility or other person may request a protective order protecting proprietary confidential business information from discovery. Upon a showing by a utility or other person and a finding by the Commission that the material is entitled to protection, the Commission shall enter a protective order limiting discovery in the manner provided for in Rule 1.280, Florida Rules of Civil Procedure.

In addition, Rule 25-22.006(6)(c), F.A.C., states that if a party allows OPC to inspect or take possession of utility information, then that "utility may request a temporary protective order exempting the information from Section 119.07(1), F.S." The rule further requires the utility to file a specific request for a protective order under paragraph (a) of the rule if the information is to be used in the proceeding before the Commission.

DEF is seeking protection of information included in portions of its responses to OPC's Second Request for Production of Documents No. 36. The discovery response contains the work papers associated with PriceWaterhouseCoopers' audit of the incremental storm restoration costs related to Hurricanes Elsa, Eta, Isaias, Ian, Nicole and Tropical Storm Fred. These work papers contain prices paid by DEF for contractors and replacement equipment as well as information that PriceWaterhouseCoopers considers proprietary. DEF contends that the disclosure of this information could adversely affect its ability to negotiate for similar services harming the competitive business of DEF, and ultimately having a detrimental impact on DEF's customers. DEF also contends that its ability to contract for outside auditing services could be harmed if PriceWaterhouseCoopers' proprietary information was disclosed.

Ruling

Upon consideration of DEF's assertions of the confidential nature of the information contained in PriceWaterhouseCoopers' work papers, Duke Energy Florida, LLC's Motion for Temporary Protective Order is hereby granted. As a result, this information shall be protected from disclosure pursuant to Rule 25-22.006(6), F.A.C.

Based on the foregoing, it is hereby

ORDERED by Commissioner Art Graham, as Prehearing Officer, that Duke Energy Florida, LLC's Motion for Temporary Protective Order of PriceWaterhouseCoopers' audit work papers produced in response to the Office of Public Counsel's Second Request for Production of Documents No. 36 is granted.

By ORDER of Commissioner Art Graham, as Prehearing Officer, this 29th day of January, 2025.



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.

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.