

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for approval for an accounting order to record in a regulatory asset or liability the unrealized and realized gains and losses resulting from financial accounting requirements related to interest rate derivative agreements, Progress Energy Florida, Inc.

DOCKET NO. 120303-EI
ORDER NO. PSC-13-0421-CFO-EI
ISSUED: September 11, 2013

ORDER GRANTING DUKE ENERGY FLORIDA INC.'S SECOND REQUEST FOR
CONFIDENTIAL CLASSIFICATION (DOCUMENT NO. 05099-13)

On August 29, 2013, pursuant to Section 366.093, Florida Statutes (F.S.) and Rule 25-22.006, F.A.C, Duke Energy Florida, Inc. (DEF) filed a request for confidential classification with respect to the highlighted information contained in the supporting documentation to their risk management plan for interest rate derivatives for 2013 (Document No. 05099-13). DEF states that the information contained in these documents should be classified as proprietary, confidential business information pursuant to Section 366.093(3)(e), F.S.

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 Section 119.07(1) [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. Sections (3)(d) and (e) of Section 366.093 F.S., provide that proprietary confidential business information includes, but is not limited to “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.”

DEF contends that designated portions of the information contained in the supporting documentation to their risk management plan, as more specifically identified by page and line in Exhibit C to its Request, fall within these categories and, thus, constitute proprietary confidential business information entitled to protection under Section 366.093, F.S., and Rule 25-22.006, F.A.C.

DEF maintains that the supporting documentation provides internal policies and guidelines regarding interest rate derivative transactions. DEF contends that disclosure of this information would enable third parties to have insight into DEF's internal risk management guidelines and to obtain competitive information, which could result in greater price convergence in future negotiations. DEF further contends that transaction counterparties would

no longer need to make their best offers to ensure the competitiveness of their prices against the disclosed prices and potential counterparties could simply offer the highest prices that would allow them to maintain a marginally competitive position against the disclosed forecasted costs and percentages. As such, DEF asserts that disclosure of the information would impair the DEF's efforts to contract for goods or services on favorable terms in the future. Additionally, DEF contends that if the information at issue was publicly disclosed, DEF's efforts to enter into transactions that effectively manage DEF's Interest Rate risk and provide economic value to both DEF and its ratepayers could be compromised by DEF's competitors changing their consumption or purchasing behavior within the relevant markets. DEF maintains that the information for which confidentiality classification is being requested has not been disclosed to the public and is intended to be and is treated as confidential by DEF.

Time Period For Confidential Classification

DEF requests confidential classification for this information for a period of 18 months. According to Section 366.093(4), F.S., confidential classification may only extend for 18 months from the issuance of an Order granting confidential classification unless "the Commission finds, for good cause, that the protection from disclosure shall be for a specified longer period."

Ruling

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 constitutes "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 No. 05099-13 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 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 Lisa Polak Edgar, as Prehearing Officer, that Duke Energy Florida, Inc.'s Request for Confidential Classification of Document No. 05099-13 is granted. It is further

ORDERED that the information in Document No. 05099-13 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 Lisa Polak Edgar, as Prehearing Officer, this 11th day of September, 2013.



LISA POLAK EDGAR
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.

JEG

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

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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.