

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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

DOCKET NO. 150001-EI
ORDER NO. PSC-15-0269-CFO-EI
ISSUED: July 2, 2015

ORDER GRANTING DUKE ENERGY FLORIDA INC.'S
REQUEST FOR CONFIDENTIAL CLASSIFICATION
(DOCUMENT NO. 02375-15)

On April 29, 2015, pursuant to Section 366.093, Florida Statutes (F.S.), and Rule 25-22.006, Florida Administrative Code (F.A.C.), Duke Energy Florida, Inc. (DEF) filed a Request for Confidential Classification (Request) of portions of its Form 423 Fuel Reports for January, February, and March 2015 (Report) (Document No. 02375-15).

Request for Confidential Classification

DEF contends that designated portions of the information contained in its 423 Report for January, February, and March, 2015, as more specifically described in Attachment C attached to its Request, constitute proprietary confidential business information entitled to protection under Section 366.093, F.S., and Rule 25-22.006, F.A.C. Attachment C attached to DEF's Request contains a detailed matrix providing justification and support for confidential classification of the information in each section of the 423 Reports (Forms 423-1A, 423-2, 423-2A, and 423-2B) on a line-by-line, column-by-column basis. DEF asserts that this information is intended to be and is treated by DEF as private and has not been publicly disclosed.

DEF requests confidential classification for this information for a period of two years. According to Section 366.093(4), F.S., confidential classification may only extend for up to 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." DEF requests that the information be treated as confidential for a period of two years from the date the information is classified confidential. DEF separately addresses the need for extending the 18-month period for fuel oil, coal and coal transportation data as follows.

DEF seeks protection of the contract data associated with fuel oil, coal, and coal transportation contracts specified in Attachment C attached to its Request for a minimum period of two years. DEF contends that the need for two or more years of confidentiality is vital not only to DEF and its ratepayers, but to the vendors of fuel oil, coal, and coal transportation services as well. DEF argues that if a current or potential supplier were to obtain contract pricing information for a reporting month in the previous 12-month adjustment period, the information would be only one adjustment removed from the current price. Suppliers knowledgeable in the recent escalation experience of their market could readily calculate a reasonably precise estimate of the current price paid by DEF for these services. Thus, to guard against providing suppliers with this advantage, confidential information must be protected from disclosure for the initial 12-

month period protecting the current price and for the following 12-month period in which the then current price can be readily calculated from the previous 12-month period disclosed price. Since that is the case, protecting the information for only 18 months wastes the protection given in the first 6 months of the second 12-month pricing period (months 13 through 18) by disclosing information of the same vintage in the last six months of the pricing period. Disclosure of information in months 19 through 24 would be equally as detrimental. To make the protection provided in months 13 through 18 meaningful, the confidentiality period must be extended through month 24.

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)(d), 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.

Upon review, it appears the above-referenced information satisfies the criteria set forth in Section 366.093(3)(d), F.S., for classification as proprietary confidential business information. The information described above and in Attachment C, attached to DEF's Request, appears 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. This information reveals invoice prices, transportation charges, and fuel oil and coal prices. The public disclosure of any of this information could reduce DEF's competitiveness in the marketplace. This, in turn, could result in higher prices for fuel transportation and fuel. Therefore, the information contained in Document No. 02375-15 as more specifically described in DEF's Form 423 Fuel Reports for January, February and March, 2015, shall be granted confidential classification.

Section 366.093(4), F.S., provides that any finding by the Commission that records contain proprietary confidential business information shall be effective for a period not to exceed 18 months, absent good cause shown. DEF appears to have provided sufficient information concerning the harm which could arise from not protecting this information for a minimum of two years. Accordingly, the information identified in Document No. 02375-15 shall be granted confidential classification for a period of 24 months from the issuance of this Order.


Based on the foregoing, it is

ORDERED by Chairman Art Graham, as Prehearing Officer, that Duke Energy Florida, Inc.'s requests for confidential treatment of portions of Document No. 02375-15 is granted, as set forth herein. It is further

ORDERED that the fuel and transportation data referenced in Document No. 02375-15 shall be granted confidential classification for a period of two years from the date of the issuance of this Order. It is further

ORDERED that this Order will be the only notification by the Commission to the parties concerning the expiration of the confidentiality time period.

By ORDER of Chairman Art Graham, as Presiding Officer, this 2nd day of July, 2015.


ART GRAHAM
Chairman and Presiding 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

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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.