

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Nuclear cost recovery clause.

DOCKET NO. 20170009-EI  
ORDER NO. PSC-2017-0495-CFO-EI  
ISSUED: December 28, 2017

ORDER GRANTING IN PART DUKE ENERGY FLORIDA, LLC'S MOTION TO EXTEND  
CONFIDENTIAL CLASSIFICATION (DOCUMENT NO. 07239-12 [x. ref DN 01019-15])

On November 2, 2015, 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 a Motion to Extend Confidential Classification (request) of portions of information contained within the final audit workpapers provided pursuant to Florida Public Service Commission (Commission) staff's auditors Review of Progress Energy Florida, Inc.'s Project Management Internal Controls for Nuclear Plant Uprate and Construction Project (audit workpapers) (Document No. 07239-12 [x. ref DN 01019-15]). This Request was filed in Docket No. 150009-EI.

Request for Confidential Classification

DEF's original request for confidential treatment of information contained Document No. 07239-12 (x. ref DN 01019-15) was granted by Order No. PSC-14-0200-CFO-EI (initial order), issued October 24, 2012. DEF states that its request is timely, and it incorporates all exhibits by reference and adopts the arguments propounded in its original request.

DEF asserts that the audit workpapers contain confidential contractual data, including pricing agreements and other confidential contractual financial terms regarding long-lead equipment, the release of which would impair DEF's competitive business interests. DEF also states that the audit workpapers contain information related to risk analyses, analyses of the various options DEF has confronted, as well as other contractual data that is subject to confidentiality agreements between DEF and the other contracting parties. DEF argues that the public disclosure of this information would allow other parties to discover how DEF analyzes risk options, scheduling, and cost, and would impair DEF's ability to contract for such goods and services on competitive and favorable terms. DEF argues that this information should be held confidential pursuant to Section 366.093(3)(d), F.S.

Ruling

Section 366.093(1), F.S., provides that records that the Florida Public Service Commission (Commission) has found to contain proprietary confidential 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 DEF as private, in that disclosure of the information would cause harm to DEF's ratepayers or business operations, and that has not been voluntarily disclosed to the public.

Section 366.093(3), F.S., provides, in pertinent part 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), F.S., for continued classification as proprietary confidential business information. The information described above appears to be information concerning bids or other contractual data, the disclosure of which would impair the efforts of DEF or its affiliates to contract for goods or services on favorable terms and information relating to competitive interests. Thus, the information identified in Document No. 07239-12 (x. ref DN 01019-15), shall be granted a continuation of confidential classification.

DEF states that this information will continue to be confidential beyond the next 18 months, and request that confidential treatment be extended for a period five years. However, DEF did not provide any further support for why the information would need continuing confidential treatment beyond the 18 months provided by statute. This does not meet the requirement provided within the statute for "good cause." Therefore, 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 Ronald A. Brisé, as Prehearing Officer, that Duke Energy Florida, LLC's Motion for Extension of Confidential Classification of Document No. 07239-12 (x. ref DN 01019-15) is granted as set forth herein. It is further

ORDERED that the information contained in Document No. 07239-12 (x. ref DN 01019-15), 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 will be the only notification by the Commission to the parties concerning the expiration of the confidentiality time period.

28th (Am) 12/29/17

By ORDER of Commissioner Ronald A. Brisé, as Prehearing Officer, this ~~18th~~ day of December, 2017.



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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.

KRM

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.