

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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

DOCKET NO. 20190001-EI
ORDER NO. PSC-2019-0423-CFO-EI
ISSUED: October 16, 2019

ORDER GRANTING DUKE ENERGY FLORIDA, LLC'S REQUEST
FOR CONFIDENTIAL CLASSIFICATION (DOCUMENT NO. 09061-2019)

On September 26, 2019, 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 Request for Confidential Classification (Request) of portions of Jeffrey Swartz's testimony (pages 2, 3, 5-8, 13 and 19) and Exhibit Nos. JS-2, JS-3, and JS-4 attached to his testimony (Document No. 09061-2019).

Request for Confidential Classification

DEF contends that the information contained in portions of Jeffrey Swartz's testimony (pages 2, 3, 5-8, 13 and 19) and Exhibit Nos. JS-2, JS-3, and JS-4 attached to his testimony, more specifically described in Exhibit C to its Requests, constitutes proprietary confidential business information entitled to protection under Section 366.093, F.S., and Rule 25-22.006, F.A.C. DEF asserts that this information is intended to be and is treated by DEF as private and has not been publicly disclosed.

The information contained Jeffrey Swartz's testimony (pages 2, 3, 5-8, 13 and 19) and Exhibit Nos. JS-2, JS-3, and JS-4 consists of proprietary third-party drawings, pictures, and technical information regarding OEM's proprietary component design and operation parameters. Additionally, Exhibit JS-2 contains the same information as Exhibit No. 1 in last years' Fuel Docket, Docket No. 20180001-EI, and was granted previously confidentiality by Order No. PSC-2018-0198-CFO-EI, issued on April 23, 2018. DEF contends that the disclosure of this information would impair its efforts to enter into third-party contracts in the future if it cannot protect their proprietary business information. Further, DEF argues that third-parties will demand a "premium" to do business with DEF to account for the risk that its proprietary information will become public record. For these reasons DEF states that this information is protected by Sections 366.093(3)(d) and (e), F.S.

Ruling

Section 366.093(1), F.S., provides that records the Florida Public Service Commission (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 services 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 contained in Jeffrey Swartz's testimony (pages 2, 3, 5-8, 13 and 19) and Exhibit Nos. JS-2, JS-3, and JS-4, if disclosed, could adversely impact DEF's competitive interests as well as the competitive interests of its third-party vendors. Disclosure will also impair DEF's ability to enter into the most cost effective contracts with its vendors in the future. Thus, the information identified in Document No. 09061-2019 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 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 Gary F. Clark, as Prehearing Officer, that Duke Energy Florida, LLC's Request for Confidential Classification of Document No. 09061-2019 is granted, as set forth herein. It is further

ORDERED that the information in Document No. 09061-2019 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 Gary F. Clark, as Prehearing Officer, this 16th day of October, 2019.



GARY F. CLARK
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.

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 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.