



DANIEL HERNANDEZ
PARTNER
Shutts & Bowen LLP
4301 W. Boy Scout Boulevard
Suite 300
Tampa, Florida 33607
DIRECT (813) 227-8114
FAX (813) 227-8214
EMAIL DHernandez@shutts.com

FILED 3/20/2020
DOCUMENT NO. 01537-2020
FPSC - COMMISSION CLERK

March 20, 2020

VIA ELECTRONIC FILING

Mr. Adam Teitzman, Commission Clerk
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

In re: *Petition by Duke Energy Florida, LLC for Approval of Actual Storm Restoration Costs and Associated Recovery Process Related to Hurricane Michael and Tropical Storm Alberto*; Docket No. 20190110-EI

Dear Mr. Teitzman:

Please find enclosed for electronic filing on behalf of Duke Energy Florida, LLC (“DEF”), DEF’s Request for Confidential Classification filed in connection with the information contained within the set of documents produced by DEF in response to request numbers 19, 24a, 24b, 24c, and 25 of the Citizens’ Corrected Third Request for Production of Documents to Duke Energy Florida, LLC (Nos. 19-27). This filing includes the following:

- DEF’s Request for Confidential Classification;
- Slipsheet for confidential Exhibit A;
- Redacted Exhibit B (two copies);
- Exhibit C (justification matrix); and
- Composite Exhibit D (affidavits of Tom Morris and Jason Cutliffe).

DEF’s confidential Exhibit A that accompanies the above-referenced filing has been submitted under separate cover.

Thank you for your assistance in this matter. Please feel free to call me at (813) 227-8114 should you have any questions concerning this filing.

Respectfully,

Shutts & Bowen LLP

/s/ Daniel Hernandez

Daniel Hernandez

Enclosure (as noted)

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition by Duke Energy Florida, LLC for limited proceeding for recovery of incremental storm restoration costs related to Hurricane Michael and Tropical Storm Alberto.

Docket No. 20190110-EI
Filed: March 20, 2020

**DUKE ENERGY FLORIDA, LLC'S REQUEST FOR
CONFIDENTIAL CLASSIFICATION**

Duke Energy Florida, LLC, (“DEF” or “Company”), pursuant to Section 366.093, Florida Statutes (F.S.), and Rule 25-22.006, Florida Administrative Code (F.A.C.), submits this Request for Confidential Classification (the “Request”) for certain information contained within the set of documents produced by DEF on March 19, 2020, in response to request numbers 19, 24a, 24b, 24c, and 25 of the Citizens’ Corrected Third Request for Production of Documents to Duke Energy Florida, LLC (Nos. 19-27) served on February 21, 2020. In support of this Request, DEF states:

1. Portions of DEF’s production in response to request numbers 19, 24a, 24b, 24c, and 25 of the Citizens’ Corrected Third Request for Production of Documents to Duke Energy Florida, LLC (Nos. 19-27) are “proprietary confidential business information” under Section 366.093(3), Florida Statutes.

2. The following exhibits are included with this Request:

(a) Sealed **Exhibit A** is a package containing an unredacted copy of the portions of DEF’s production in response to request numbers 19, 24a, 24b, 24c, and 25 of the Citizens’ Corrected Third Request for Production of Documents to Duke Energy Florida, LLC (Nos. 19-27), for which DEF seeks confidential treatment. **Exhibit A** is being submitted

separately in a sealed envelope labeled “CONFIDENTIAL.” In the unredacted copy, the information asserted to be confidential is highlighted in yellow.

(b) **Composite Exhibit B** is two copies of the redacted information contained within DEF’s production in response to request numbers 19, 24a, 24b, 24c, and 25 of the Citizens’ Corrected Third Request for Production of Documents to Duke Energy Florida, LLC (Nos. 19-27), for which the Company requests confidential classification. The specific information for which confidential treatment is requested has been blocked out by opaque marker or other means.

(c) **Exhibit C** is a table which identifies, by the page and specific portions of the information contained within DEF’s production in response to request numbers 19, 24a, 24b, 24c, and 25 of the Citizens’ Corrected Third Request for Production of Documents to Duke Energy Florida, LLC (Nos. 19-27), the information for which DEF seeks confidential classification and the specific statutory bases for seeking confidential treatment.

(d) **Composite Exhibit D** contains two affidavits attesting to the confidential nature of the information identified in this Request.¹

3. As indicated in **Exhibit C**, the information for which DEF requests confidential classification is “proprietary confidential business information” within the meaning of Section 366.093(3), F.S. Specifically, the information at issue includes the Company’s internal policies and standards (DEF’s Regulated Electric Gas Capitalization Guidelines) as well as contractual rate information.² DEF must ensure that sensitive business information such as internal policies

¹Due to the current circumstances with COVID-19, DEF is submitting this Request for Confidential Classification with Unverified Affidavits. DEF will file Verified Affidavits as soon as the climate allows.

²Please see Order Granting Duke Energy Florida, LLC’s Request for Confidential Classification (Document Nos. 03595-2018 and 03031-2018), Order No. PSC-2018-0417-CFO-EI, Document No. 05466-2018, issued on August 23, 2018, in Docket No. 20170272-EI, approving DEF’s Regulated Electric Gas Capitalization Guidelines.

and procedures and contractual business information are kept confidential, the disclosure of which would impair the Company's competitive business advantages. Therefore, the confidential information at issue qualifies for confidential classification. *See* §§ 366.093(3) (d), F.S.; Affidavit of Tom Morris at ¶ 5; and Affidavit of Jason Cutliffe at ¶¶ 5 and 6. Furthermore, the information at issue contains confidential proprietary information, the disclosure of which would impair the Company's ability to protect proprietary information. *See* §§ 366.093(3)(e), F.S.; Affidavit of Tom Morris at ¶ 5. If DEF cannot assure contracting parties that it can maintain the confidentiality of contractual terms, those parties and other similarly situated parties may forego entering contracts with DEF, which would impair the ability of the Company to negotiate contracts on favorable terms. *See* § 366.093(3)(d) and (e), F.S.; Affidavit of Jason Cutliffe at ¶ 6. Accordingly, such information constitutes "proprietary confidential business information," which is exempt from disclosure under the Public Records Act pursuant to Section 366.093(1), F.S.

4. The information identified as **Exhibit A** is intended to be and is treated as confidential by the Company. *See* Affidavit of Tom Morris at ¶ 6 and 7; and Affidavit of Jason Cutliffe at ¶¶ 7 and 8. The information has not been disclosed to the public and the Company has treated and continues to treat the information at issue in this Request as confidential. *Id.*

5. DEF requests that the information identified in **Exhibit A** be classified as "proprietary confidential business information" within the meaning of Section 366.093(3), F.S., that the information remain confidential for a period of at least eighteen (18) months as provided in Section 366.093(4) F.S., and that the information be returned as soon as it is no longer necessary for the Commission to conduct its business.

WHEREFORE, for the foregoing reasons, DEF respectfully requests that this Request for Confidential Classification be granted.

DATED this 20th day of March, 2020.

/s/ Daniel Hernandez
DANIEL HERNANDEZ
Florida Bar No. 176834
NICOLE ZAWORSKA
Florida Bar No. 1003564
MELANIE B. SENOSIAIN
Florida Bar No. 118904
Shutts & Bowen LLP
4301 W. Boy Scout Blvd., Suite 300
Tampa, Florida 33607
T: 813- 229-8900
F: 813-229-8901
E: dhernandez@shutts.com
E: nzaworska@shutts.com

DIANNE M. TRIPLETT
Deputy General Counsel
Duke Energy Florida, LLC.
299 First Avenue North
St. Petersburg, FL 33701
T: 727.820.4692
F: 727.820.5041
E: Dianne.Triplett@duke-energy.com
FLRegulatoryLegal@duke-energy.com

MATTHEW R. BERNIER
Associate General Counsel
Duke Energy Florida, LLC
106 East College Avenue, Suite 800
Tallahassee, Florida 32301
T: 850.521.1428
F: 727.820.5041
E: Matt.Bernier@duke-energy.com

CERTIFICATE OF SERVICE (DOCKET. NO. 20190110-EI)

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished via electronic mail this 20th day of March, 2020, to all parties of record as indicated below.

/s/ Daniel Hernandez
Attorney

<p>Ashley Weisenfeld / Rachael Dziechciarz Office of General Counsel Florida Public Service Commission 2540 Shumard Oak Blvd. Tallahassee, FL 32399-0850 aweisenf@psc.state.fl.us rdziehc@psc.state.fl.us</p>	<p>J.R. Kelly / Charles J. Rehwinkel Office of Public Counsel c/o The Florida Legislature 111 West Madison St., Room 812 Tallahassee, FL 32399-1400 kelly.jr@leg.state.fl.us rehwinkel.charles@leg.state.fl.us</p>
--	---

Exhibit A

“CONFIDENTIAL”

(submitted under separate cover)

Exhibit B

REDACTED

(two copies)

**Document bearing Bates number:
20190110-DEF-OPCPOD3-19-000001 to
20190110-DEF-OPCPOD3-19-000183**

**REDACTED
In Its Entirety**

**Document bearing Bates number:
20190110-DEF-OPCPOD3-24a_24b-000001**

**REDACTED
In Its Entirety**

**Document bearing Bates number:
20190110-DEF-OPCPOD3-24c-000001**

**REDACTED
In Its Entirety**

**Document bearing Bates number:
20190110-DEF-OPCPOD3-25-000001 to
20190110-DEF-OPCPOD3-25-000024**

**REDACTED
In Its Entirety**

**Document bearing Bates number:
20190110-DEF-OPCPOD3-19-000001 to
20190110-DEF-OPCPOD3-19-000183**

**REDACTED
In Its Entirety**

**Document bearing Bates number:
20190110-DEF-OPCPOD3-24a_24b-000001**

**REDACTED
In Its Entirety**

**Document bearing Bates number:
20190110-DEF-OPCPOD3-24c-000001**

**REDACTED
In Its Entirety**

**Document bearing Bates number:
20190110-DEF-OPCPOD3-25-000001 to
20190110-DEF-OPCPOD3-25-000024**

**REDACTED
In Its Entirety**

Exhibit C

DUKE ENERGY FLORIDA, LLC Confidentiality Justification Matrix

DOCUMENT/RESPONSES	PAGE/LINE	JUSTIFICATION
DEF's Response to Citizen's Corrected Third Request for Production of Documents (Nos. 19-20); specifically, request number 19	Response to POD No. 19 - Document bearing Bates number 20190110-DEF-OPCPOD3-19-000001 through 20190110-DEF-OPCPOD3-19-000183: The entire document is confidential.	§366.093(3)(d), F.S. The document in question contains confidential information, the disclosure of which would impair DEF's efforts to contract for goods or services on favorable terms. §366.093(3)(e), F.S. The document in question contains confidential information, the disclosure of which would impair DEF's competitive interests.
DEF's Response to Citizen's Corrected Third Request for Production of Documents (Nos. 19-20); specifically, request number 24a	Response to POD No. 24a - Document bearing Bates number 20190110-DEF-OPCPOD3-24a_24b-000001: The entire document is confidential.	§366.093(3)(d), F.S. The document in question contains confidential information, the disclosure of which would impair DEF's efforts to contract for goods or services on favorable terms. §366.093(3)(e), F.S. The document in question contains confidential information, the disclosure of which would impair DEF's competitive interests.
DEF's Response to Citizen's Corrected Third Request for Production of Documents (Nos. 19-20); specifically, request number 24b	Response to POD No. 24b - Document bearing Bates number 20190110-DEF-OPCPOD3-24a_24b-000001: The entire document is confidential.	§366.093(3)(d), F.S. The document in question contains confidential information, the disclosure of which would impair DEF's efforts to contract for goods or services on favorable terms. §366.093(3)(e), F.S. The document in question

		contains confidential information, the disclosure of which would impair DEF's competitive interests.
DEF's Response to Citizen's Corrected Third Request for Production of Documents (Nos. 19-20); specifically, request number 24c	Response to POD No. 24c - Document bearing Bates number 20190110-DEF-OPCPOD3-24c-000001 : The entire document is confidential.	<p>§366.093(3)(d), F.S. The document in question contains confidential information, the disclosure of which would impair DEF's efforts to contract for goods or services on favorable terms.</p> <p>§366.093(3)(e), F.S. The document in question contains confidential information, the disclosure of which would impair DEF's competitive interests.</p>
DEF's Response to Citizen's Corrected Third Request for Production of Documents (Nos. 19-20); specifically, request number 25	Response to POD No. 25 - Documents bearing Bates numbers 20190110-DEF-OPCPOD3-25-000001 through 20190110-DEF-OPCPOD3-25-000024 : The entire set of documents are confidential.	<p>§366.093(3)(d), F.S. The document in question contains confidential information, the disclosure of which would impair DEF's efforts to contract for goods or services on favorable terms.</p> <p>§366.093(3)(e), F.S. The document in question contains confidential information, the disclosure of which would impair DEF's competitive interests.</p>

Composite Exhibit D

AFFIDAVITS OF JASON CUTLIFFE AND TOM MORRIS

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition by Duke Energy Florida, LLC for limited proceeding for recovery of incremental storm restoration costs related to Hurricane Michael and Tropical Storm Alberto.

Docket No. 20190110-EI
Filed: March 20, 2020

**AFFIDAVIT OF JASON CUTLIFFE IN SUPPORT OF
DUKE ENERGY FLORIDA, LLC'S REQUEST FOR
CONFIDENTIAL CLASSIFICATION**

STATE OF FLORIDA

COUNTY OF _____

BEFORE ME, the undersigned authority duly authorized to administer oaths, personally appeared Jason Cutliffe, who being first duly sworn, on oath, deposes and says that:

1. My name is Jason Cutliffe. I am over the age of eighteen (18) and I have been authorized by Duke Energy Florida, LLC (hereinafter "DEF" or "Company") to give this affidavit in the above-styled proceeding on DEF's behalf and in support of DEF's Request for Confidential Classification ("DEF's Request"). The facts attested to in my affidavit are based upon my personal knowledge.

2. I am the General Manager of Emergency Preparedness for the Company.

3. As the General Manager, I am responsible for the overall management and emergency training of managers and employees. I am also responsible for the overall preparedness for major restoration events. Additionally, I serve as the Region Incident Commander when such a role is activated under the Incident Command Structure.

4. DEF is seeking the confidential classification for certain information contained within the set of documents produced by DEF on March 19, 2020, in response to request

numbers 19, 24a, 24b, 24c, and 25 of the Citizens' Corrected Third Request for Production of Documents to Duke Energy Florida, LLC (Nos. 19-27) served on February 21, 2020. The confidential information at issue, questions 24a, 24b, 24c, and 25, are contained in confidential Exhibit A to DEF's Request and is outlined in DEF's Justification Matrix attached to DEF's Request as Exhibit C. DEF is requesting confidential classification of this information because it contains competitively sensitive confidential information concerning contractual business information, the disclosure of which would impair DEF's efforts to contract for goods or services on favorable terms.

5. The confidential information at issue relates to commercially sensitive confidential information concerning contractual business information and obligations under a contract between DEF and its contractors related to contractor rates and private contracts for emergency response activities. The disclosure of such information would not only impair the Company's competitive business advantages, but would also violate DEF's contractual requirements to maintain the confidentiality of such information under the subject contract. Therefore, the confidential information at issue qualifies for confidential classification.

6. DEF is obligated to maintain the confidentiality of certain contractual terms under the subject contract. If DEF cannot assure contracting parties that it can maintain the confidentiality of contractual terms, those parties and other similarly situated parties may forego entering contracts with DEF, which would impair the Company to negotiate such contracts on favorable terms.

7. The information identified as Exhibit A is intended to be and is treated as confidential by the Company. With respect to the information at issue in DEF's Request, such information has not been disclosed to the public, and the Company has treated and continues to

treat such information as confidential.

8. Upon receipt of its own confidential information, strict procedures are established and followed to maintain the confidentiality of the terms of the documents and information provided, including restricting access to those persons who need the information to assist the Company, and restricting the number of, and access to the information and contracts. At no time since receiving the information in question has the Company publicly disclosed that information. The Company has treated and continues to treat the information at issue as confidential.

9. This concludes my affidavit.

FURTHER AFFIANT SAYETH NOT.

Dated the ____ day of _____, 2020.

Jason Cutliffe
(address)

The foregoing instrument was sworn to and subscribed before me, by means of physical presence or online notarization, this ____ day of _____, 2020, by Jason Cutliffe. He is personally known to me, or has produced his ____ driver's license, ____ or his _____ as identification, and who states that the foregoing answers are true and correct to the best of his information and belief.

Signature

(AFFIX NOTARY SEAL)

Printed Name

NOTARY PUBLIC, STATE OF _____

Commission Expiration Date

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition by Duke Energy Florida, LLC for limited proceeding for recovery of incremental storm restoration costs related to Hurricane Michael and Tropical Storm Alberto.

Docket No. 20190110-EI
Filed: March 20, 2020

**AFFIDAVIT OF TOM MORRIS IN SUPPORT OF DUKE ENERGY FLORIDA, LLC'S
REQUEST FOR CONFIDENTIAL CLASSIFICATION**

STATE OF FLORIDA

COUNTY OF _____

BEFORE ME, the undersigned authority duly authorized to administer oaths, personally appeared Tom Morris, who being first duly sworn, on oath, deposes and says that:

1. My name is Tom Morris. I am over the age of eighteen (18) and I have been authorized by Duke Energy Florida, LLC (hereinafter "DEF" or "Company") to give this affidavit in the above-styled proceeding on DEF's behalf and in support of DEF's Request for Confidential Classification ("DEF's Request"). The facts attested to in my affidavit are based upon my personal knowledge.

2. I am the Director of Customer Delivery Florida Finance for the Company.

3. As the Director, I am responsible for the overall management and coordination of activities for Distribution Operations. I also oversee several employees and I ensure that such employees provide budgeting and forecasting, and expense and capital accounting for Distribution Operations among other responsibilities.

4. DEF is seeking the confidential classification for certain information contained within the set of documents produced by DEF on March 19, 2020, in response to request

numbers 19, 24a, 24b, 24c, and 25 of the Citizens' Corrected Third Request for Production of Documents to Duke Energy Florida, LLC (Nos. 19-27) served on February 21, 2020. The confidential information at issue, question 19, is contained in confidential Exhibit A to DEF's Request and is outlined in DEF's Justification Matrix attached to DEF's Request as Exhibit C. DEF is requesting confidential classification of this information because it contains proprietary confidential business information, the disclosure of which would impair DEF's efforts to contract for goods or services on favorable terms.

5. The confidential information at issue relates to DEF's Regulated Electric and Gas Capitalization Guidelines, which include policies and standards for business practices. DEF must ensure that sensitive business information such as internal policies and procedures are kept confidential. The disclosure of such information would impair the Company's competitive business advantages. Therefore, the confidential information at issue qualifies for confidential classification.

6. The information identified as Exhibit A is intended to be and is treated as confidential by the Company. With respect to the information at issue in DEF's Request, such information has not been disclosed to the public, and the Company has treated and continues to treat such information as confidential.

7. Upon receipt of its own confidential information, strict procedures are established and followed to maintain the confidentiality of the terms of the documents and information provided, including restricting access to those persons who need the information to assist the Company, and restricting the number of, and access to the information and contracts. At no time since receiving the information in question has the Company publicly disclosed that information. The Company has treated and continues to treat the information at issue as confidential.

8. This concludes my affidavit.

FURTHER AFFIANT SAYETH NOT.

Dated the ____ day of _____, 2020.

Tom Morris
(address)

The foregoing instrument was sworn to and subscribed before me, by means of physical presence or online notarization, this ____ day of _____, 2020, by Tom Morris. He is personally known to me, or has produced his ____ driver's license, ____ or his _____ as identification, and who states that the foregoing answers are true and correct to the best of his information and belief.

Signature

(AFFIX NOTARY SEAL)

Printed Name

NOTARY PUBLIC, STATE OF _____

Commission Expiration Date