



Matthew R. Bernier
Associate General Counsel
Duke Energy Florida, LLC.

April 9, 2020

VIA ELECTRONIC FILING

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

Re: *Fuel and purchased power cost recovery clause with generating performance incentive factor; Docket No. 20200001-EI*

Dear Mr. Teitzman:

Please find enclosed for electronic filing on behalf of Duke Energy Florida, LLC ("DEF"), DEF's Request for Confidential Classification for certain information contained in DEF, OPC, FIPUG, PCS Phosphate and Staff's Proposed Recommended Orders. The filing includes the following:

- DEF's Request for Confidential Classification
- Slip-sheet for confidential Exhibit A
- Redacted Exhibit B (two copies)
- Exhibit C (justification matrix), and
- Exhibit D (affidavit of Jeffrey Swartz-unverified)

DEF, OPC, FIPUG, PCS Phosphate and Staff's confidential Exhibit A that accompanies the above-referenced filing were submitted separately in conjunction with DEF's Notice of Intent to Request Confidential Classification on March 20, 2020, under separate cover.

Thank you for your assistance in this matter. Please feel free to call me at (850) 521-1428 should you have any questions concerning this filing.

Respectfully,

s/Matthew R. Bernier

Matthew R. Bernier

MRB/mw
Enclosures

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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

Docket No. 20200001-EI
DOAH No. 19-6022

Dated: April 9, 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 for certain information provided in the Proposed Recommended Orders (“PRO”) submitted by DEF, the Office of Public Counsel (“OPC”), the Florida Industrial Power Users Group (“FIPUG”), White Springs Agricultural Chemicals, Inc., d/b/a PCS Phosphate – White Springs (“PCS Phosphate”) and Staff to the Florida Public Service Commission (“Staff”), referred to as the “Parties” to the Division of Administrative Hearings (“DOAH”), submitted on March 20, 2020 with DEF’s Notice of Intent to Request Confidential Classification. This Request is timely. See Rule 25-22.006(3)(a)1, F.A.C. In support of this Request, DEF states:

1. The PROs contain “proprietary confidential business information” under § 366.093(3), Florida Statutes.
2. The following exhibits are included with this request:
 - (a) Sealed Composite Exhibit A is a package containing unredacted copies of all the documents for which DEF seeks confidential treatment. Composite Exhibit A was

submitted separately in sealed envelopes labeled “CONFIDENTIAL” by the Parties on or around March 20, 2020, in conjunction with DEF’s Notice of Intent to Request Confidential Classification.

(b) Composite Exhibit B is a package containing two copies of redacted versions of the documents 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 page and line the information for which DEF seeks confidential classification and the specific statutory bases for seeking confidential treatment.

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 proprietary and confidential third-party owned information and costs, the disclosure of which would impair the third-party’s competitive business interests, and if disclosed, the Company’s competitive business interests and efforts to contract for goods and services on favorable terms. *See* § 366.093(3)(d) & (e), F.S.; Affidavit of Jeffrey Swartz at ¶¶ 4, 5 and 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 at issue contains proprietary and confidential third-party owned information and technical information regarding the third-party’s proprietary component design and operation parameters. If DEF cannot demonstrate to its third-party OEM, and others that may

enter contracts with DEF in the future, that DEF has the ability to protect those third-parties' confidential and proprietary business information, third-parties will be less likely to provide that information to DEF – harming DEF's ability to prudently operate its business. *See* § 366.093(3)(d) & (e), F.S.; Affidavit of Jeffrey Swartz at ¶¶ 4, 5 and 6. Furthermore, disclosure of the information could detrimentally impact DEF's ability to negotiate favorable contracts as third-parties may begin to demand a “premium” to do business with DEF to account for the risk that its proprietary information will become a matter of public record, thereby harming DEF's competitive interests and ultimately its customers' financial interests. *See* § 366.093(3)(e), F.S.; Affidavit of Jeffrey Swartz 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.

5. The information identified as Exhibit “A” is intended to be and is treated as confidential by the Company. *See* Affidavit of Jeffrey Swartz at ¶ 7. The information has not been disclosed to the public, and the Company has treated and continues to treat the information and contracts at issue as confidential. *See* Affidavit of Jeffrey Swartz at ¶ 7.

6. 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 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.

RESPECTFULLY SUBMITTED this 9th day of April, 2020.

s/Matthew R. Bernier _____

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Attorneys for Duke Energy Florida, LLC

CERTIFICATE OF SERVICE

Docket No. 20200001-EI

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished via email this 9th day of April, 2020, to all parties of record as indicated below.

s/Matthew R. Bernier

Attorney

<p>Suzanne Brownless Office of General Counsel FL Public Service Commission 2540 Shumard Oak Blvd. Tallahassee, FL 32399-0850 sbrownle@psc.state.fl.us</p> <p>J. Beasley / J. Wahlen / M. Means Ausley McMullen P.O. Box 391 Tallahassee, FL 32302 jbeasley@ausley.com jwahlen@ausley.com mmeans@ausley.com</p> <p>Russell A. Badders Gulf Power Company One Energy Place, Bin 100 Pensacola, FL 32520-0100 russell.badders@nexteraenergy.com</p> <p>Kenneth A. Hoffman Florida Power & Light Company 134 W. Jefferson Street Tallahassee, FL 32301-1713 ken_hoffman@fpl.com</p> <p>Jon C. Moyle, Jr. Moyle Law Firm, P.A. 118 North Gadsden Street Tallahassee, FL 32301 jmoyle@moylelaw.com mqualls@moylelaw.com</p>	<p>J.R. Kelly / T. David Office of Public Counsel 111 W. Madison St., Room 812 Tallahassee, FL 32399-1400 kelly.jr@leg.state.fl.us david.tad@leg.state.fl.us</p> <p>Paula K. Brown Regulatory Affairs Tampa Electric Company P.O. Box 111 Tampa, FL 33601-0111 regdept@tecoenergy.com</p> <p>Maria Moncada / David Lee Florida Power & Light Company 700 Universe Blvd. (LAW/JB) Juno Beach, FL 33408-0420 maria.moncada@fpl.com david.lee@fpl.com</p> <p>James Brew / Laura W. Baker Stone Law Firm 1025 Thomas Jefferson St., N.W. Suite 800 West Washington, DC 20007 jbrew@smxblaw.com lwb@smxblaw.com</p> <p>Mike Cassel Florida Public Utilities Company 208 Wildlight Avenue Yulee, FL 32097 mcassel@fpuc.com</p> <p>Beth Keating Gunster, Yoakley & Stewart, P.A. 215 South Monroe Street, Suite 601 Tallahassee, FL 32301 bkeating@gunster.com</p>
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Exhibit A

“CONFIDENTIAL”

(submitted on March 20, 2020, under separate cover)

Exhibit B

REDACTED

(Copy one)

DEF'S PROPOSED RECOMMENDED ORDER
REDACTED IN ITS ENTIRETY

STAFF'S PROPOSED RECOMMENDED ORDER
REDACTED IN ITS ENTIRETY

OPC, FIPUG, PCS PHOSPHATE'S
PROPOSED RECOMMENDED ORDER
REDACTED IN ITS ENTIRETY

Exhibit B

REDACTED

(Copy two)

DEF'S PROPOSED RECOMMENDED ORDER
REDACTED IN ITS ENTIRETY

STAFF'S PROPOSED RECOMMENDED ORDER
REDACTED IN ITS ENTIRETY

OPC, FIPUG, PCS PHOSPHATE'S
PROPOSED RECOMMENDED ORDER
REDACTED IN ITS ENTIRETY

Exhibit C

DUKE ENERGY FLORIDA Confidentiality Justification Matrix

DOCUMENT/RESPONSES	PAGE/LINE	JUSTIFICATION
DEF's Proposed Recommended Order	All information in DEF's PRO is confidential in its entirety.	<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 relating to competitive business interests, the disclosure of which would impair the competitive business of the provider/owner of the information.</p>
DOCUMENT/RESPONSES	PAGE/LINE	JUSTIFICATION
OPC, FIPUG & PCS Phosphate Joint Proposed Recommended Order	All information in OPC, FIPUG & PCS Phosphate's PRO is confidential in its entirety.	<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 relating to competitive business interests, the disclosure of which would impair the competitive business of the provider/owner of the information.</p>

DOCUMENT/RESPONSES	PAGE/LINE	JUSTIFICATION
Staff's Proposed Recommended Order	All information in Staff's PRO is confidential in its entirety.	<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 relating to competitive business interests, the disclosure of which would impair the competitive business of the provider/owner of the information.</p>

Exhibit D

AFFIDAVIT OF JEFFREY SWARTZ

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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

Docket No. 20200001-EI

Dated: April 9, 2020

**AFFIDAVIT OF JEFFREY SWARTZ IN SUPPORT OF
DUKE ENERGY FLORIDA'S
REQUEST FOR CONFIDENTIAL CLASSIFICATION**

STATE OF FLORIDA

COUNTY OF PINELLAS

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

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

2. I am the Vice President of Florida Generation in the Fossil Hydro Operations Department. This section is responsible for overall leadership and strategic direction of DEF's power generation fleet.

3. As the Vice President of Florida Generation, I am responsible, along with the other members of the section, for strategic and tactical planning to operate and maintain DEF's non-nuclear generation fleet, generation fleet project and additions

recommendations, major maintenance programs, outage and project management, and retirement of generation facilities.

4. DEF is seeking confidential classification for information contained in the Proposed Recommended Orders (“PRO”) submitted by DEF, the Office of Public Counsel (“OPC”), the Florida Industrial Power Users Group (“FIPUG”), White Springs Agricultural Chemicals, Inc., d/b/a PCS Phosphate – White Springs (“PCS Phosphate”) and Staff to the Florida Public Service Commission (“Staff”) referred to as the “Parties” to the Division of Administrative Hearings (“DOAH”). The confidential information at issue is contained in confidential Exhibit A to DEF’s Request and is outlined in DEF’s Justification Matrix that is attached to DEF’s Request as Exhibit C. DEF is requesting confidential classification of this information because it contains sensitive business information, the disclosure of which would impair the Company’s competitive business interests and ability to contract for goods and services on favorable terms.

5. The confidential information at issue relates to proprietary and confidential third-party operating procedures, drawings, and technical information regarding the third-party’s proprietary component design and operation parameters, the disclosure of which would impair third-party’s competitive business interests, and if disclosed, the Company’s competitive business interests and efforts to contact for goods or services on favorable terms.

6. Further, if DEF cannot demonstrate to its third-party OEM, and others that may enter contracts with DEF in the future, that DEF has the ability to protect those third-parties’ confidential and proprietary business information, third-parties will be less likely to provide that information to DEF – harming DEF’s ability to prudently operate its business. DEF has not publicly disclosed the information. Without DEF’s measures to

maintain the confidentiality of this sensitive business information, DEF's ability to contract with third-parties could detrimentally impact DEF's ability to negotiate favorable contracts, as third-parties may begin to demand a "premium" to do business with DEF to account for the risk that its proprietary information will become a matter of public record, thereby harming DEF's competitive interests and ultimately its customers' financial interests.

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.

(Signature)
Jeffrey Swartz
Vice President Florida Generation
Duke Energy Florida, LLC
Florida Regional Headquarters
St. Petersburg, FL

THE FOREGOING INSTRUMENT was sworn to and subscribed before me this ____ day of _____, 2020 by Jeffrey Swartz. He is personally known to me or has produced his _____ driver's license, or his _____ as identification.

(AFFIX NOTARIAL SEAL)

(Signature)

(Printed Name)
NOTARY PUBLIC, STATE OF _____

(Commission Expiration Date)

(Serial Number, If Any)