



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

May 28, 2020

**VIA ELECTRONIC FILING**

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

Re: *Review of 2020-2029 Storm Protection Plan Pursuant to Rule 25-6.030, F.A.C., Duke Energy Florida, LLC; Docket No. 20200069-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’s Response to OPC’s Sixth Request to Produce (Nos. 80-87). 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 (affidavits of Jay W. Oliver -unverified)

DEF’s confidential Exhibit A that accompanies the above-referenced filing was submitted with DEF’s Notice of Intent to Request Confidential Classification on May 7, 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*

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Matthew R. Bernier

MRB/mw  
Enclosures

**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

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In re: Review of 2020-2029 Storm Protection  
Plan Pursuant to Rule 25-6.030, F.A.C., Duke  
Energy Florida, LLC

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Docket No. 20200069-EI

Dated: May 28, 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 its response to the Office of the Public Counsel’s (“OPC”) Sixth Request to Produce Documents (Nos. 80-87), served on May 7, 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. DEF’s Response to OPC’s Sixth Request to Produce Documents (Nos. 80-87), specifically documents responsive to questions 81, bearing bates numbers 20200069-DEF-003249 through 20200069-DEF-003254, respectively, 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 a sealed envelope labeled “CONFIDENTIAL” on May 7, 2020, with DEF’s Notice of Intent to Request Confidential Classification. In the unredacted versions, the information asserted to be confidential is highlighted in yellow.

(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 forecasted costs, the disclosure of which would impair 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 Jay W. Oliver 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. If the information at issue was disclosed, DEF’s efforts to obtain contracts that provide economic value to both DEF and its customers could be compromised by competitors and vendors changing their purchasing behavior within the relevant markets. *See id.* at ¶ 5. 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 Jay W. Oliver 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 Jay W. Oliver at ¶¶ 6 and 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 28<sup>th</sup> day of May, 2020.

*s/Matthew R. Bernier*

**DIANNE M. TRIPLETT**

Deputy General Counsel

299 First Avenue North

St. Petersburg, FL 33701

T: 727-820-4692

F: 727-820-5041

Email: [Dianne.Triplett@duke-energy.com](mailto:Dianne.Triplett@duke-energy.com)

**MATTHEW R. BERNIER**

Associate General Counsel

106 East College Avenue, Suite 800

Tallahassee, Florida 32301

T: 850-521-1428

F: 727-820-5519

Email: [Matthew.Bernier@duke-energy.com](mailto:Matthew.Bernier@duke-energy.com)

Attorneys for Duke Energy Florida, LLC

**CERTIFICATE OF SERVICE**  
**Docket No. 20200069-EI**

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished to the following by electronic mail this 28<sup>th</sup> day of May, 2020, to all parties of record as indicated below.

\_\_\_\_\_  
*/s/ Matthew R. Bernier*  
Attorney

<p>C. Murphy / R. Dziechciarz Office of General Counsel Florida Public Service Commission 2540 Shumard Oak Blvd. Tallahassee, FL 32399-0850 <a href="mailto:cmurphy@psc.state.fl.us">cmurphy@psc.state.fl.us</a> <a href="mailto:rdziechc@psc.state.fl.us">rdziechc@psc.state.fl.us</a></p> <p>James W. Brew / Laura Wynn Baker 1025 Thomas Jefferson St., N.W. Suite 800 West Washington, DC 20007-5201 <a href="mailto:jbrew@smxblaw.com">jbrew@smxblaw.com</a> <a href="mailto:lwb@smxblaw.com">lwb@smxblaw.com</a></p>	<p>J.R. Kelly / Charles J. Rehwinkel Office of Public Counsel c/o The Florida Legislature 111 West Madison St., Rm. 812 Tallahassee, FL 32399-1400 <a href="mailto:kelly.jr@leg.state.fl.us">kelly.jr@leg.state.fl.us</a> <a href="mailto:rehwinkel.charles@leg.state.fl.us">rehwinkel.charles@leg.state.fl.us</a></p> <p>Stephanie U. Eaton 110 Oakwood Dr., Ste. 500 Winston-Salem, NC 27103 <a href="mailto:seaton@spilmanlaw.com">seaton@spilmanlaw.com</a></p> <p>Derrick P. Williamson / Barry A. Naum 1100 Bent Creed Blvd., Ste. 101 Mechanicsburg, PA 17050 <a href="mailto:dwilliamson@spilmanlaw.com">dwilliamson@spilmanlaw.com</a> <a href="mailto:bnaum@spilmanlaw.com">bnaum@spilmanlaw.com</a></p>
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# **Exhibit A**

**“CONFIDENTIAL”**

**(submitted on May 7, 2020, under separate cover)**

# **Exhibit B**

**REDACTED**

**(Copy one)**

Documents bearing bates numbers 20200069-DEF-003249 through 20200069-  
DEF-003254 are redacted in their entirety.



# **Exhibit B**

**REDACTED**

**(Copy two)**

Documents bearing bates numbers 20200069-DEF-003249 through 20200069-  
DEF-003254 are redacted in their entirety.

# Exhibit C

## DUKE ENERGY FLORIDA Confidentiality Justification Matrix

DOCUMENT/RESPONSES	PAGE/LINE	JUSTIFICATION
DEF's Response to OPC's Sixth Request for Production (Nos. 80-87), specifically questions 81	<b>Q81:</b> All information in bates numbers <b>20200069-DEF-003249 through 20200069-DEF-003254</b> , is confidential in its entirety.	§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 relating to competitive business interests, the disclosure of which would impair the competitive business of the provider/owner of the information.

# **Exhibit D**

## **AFFIDAVIT OF JAY W. OLIVER**

**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

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In re: Review of 2020-2029 Storm Protection  
Plan Pursuant to Rule 25-6.030, F.A.C., Duke  
Energy Florida, LLC

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Docket No. 20200069-EI

Dated: May 28, 2020

**AFFIDAVIT OF JAY W. OLIVER IN SUPPORT OF  
DUKE ENERGY FLORIDA'S  
REQUEST FOR CONFIDENTIAL CLASSIFICATION**

STATE OF NORTH CAROLINA

COUNTY OF MECKLENBURG

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

1. My name is Jay W. Oliver. 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 General Manager of Grid Strategy and Asset Management Governance. This section is responsible for overall system planning and Distribution asset management strategy across Duke Energy.

3. As the General Manager of Grid Strategy and Asset Management Governance, I am responsible, along with the other members of the section for grid upgrades, system planning, and overall Distribution asset management strategy across Duke Energy.

4. DEF is seeking confidential classification for certain information provided in its response to OPC's Sixth Request for Production of Documents (Nos. 80-87), specifically question 81, bearing bates numbers 20200069-DEF-003249 through 20200069-DEF-003254. 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 forecasted costs. DEF must ensure that sensitive business information is kept confidential, the disclosure of which would impair the Company's competitive interests and ability to contract on favorable terms.

6. Further, if the information at issue was disclosed, DEF's efforts to obtain contracts that provide economic value to both DEF and its customers could be compromised by competitors and vendors changing their purchasing behavior within the relevant markets – 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)  
Jay W. Oliver  
General Manager  
Grid Strategy and Asset Management Governance

THE FOREGOING INSTRUMENT was sworn to and subscribed before me this \_\_\_ day of \_\_\_\_\_, 2020 by Jay W. Oliver. 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)