

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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

DOCKET NO. 20210001-EI
ORDER NO. PSC-2021-0047-CFO-EI
ISSUED: January 25, 2021

ORDER GRANTING DUKE ENERGY FLORIDA, LLC'S
THIRD REQUEST FOR CONFIDENTIAL CLASSIFICATION
(DOCUMENT NO. 06302-15, x-ref. 05862-15)

On November 25, 2020, Duke Energy Florida, LLC (DEF) filed its Third Request for Extension of Confidential Classification of Audit No. 15-051-2-1 (Document No. 06302-15, x-ref. 05862-15). On June 16, 2017, pursuant to Subsection 366.093, Florida Statutes (F.S.), and Rule 25-22.006, Florida Administrative Code (F.A.C.), DEF filed its First Request for Extension of Confidential Classification (Request) (Document No. 06302-15, x-ref. 05862-15). Audit No. 15-051-2-1 was originally granted confidentiality by Order No. PSC-15-0583-CFO-EI, issued on December 23, 2015, and confidentiality was extended by Order No. PSC-0333-CFO-EI, issued on August 22, 2017, and Order No. PSC-2019-0197-CFO-EI, issued on May 30, 2019.

Request for Confidential Classification

DEF contends that the information provided pursuant to Audit No. 15-051-2-1 contains information of a confidential nature, which is proprietary confidential business information within the meaning of Subsection 366.093(3), F.S.

DEF contends that the information is proprietary and confidential business information within the meaning of Subsection 366.093(3), F.S. This information is intended to be and is treated by DEF as private, and its confidentiality has been maintained. This information includes details about DEF's fuel hedging volume, practices and procedures, forecasts, and percentages. Disclosure of this type of information would allow the opportunity for market manipulation through transactions made in anticipation of the company's entry into the market which would result in higher prices for natural gas. Therefore, DEF contends that this information is protected by Paragraph 366.093(3)(e), F.S. Further, releasing the bid and contract data contained in the audit would impair the competitive businesses of both DEF and its suppliers in violation of Paragraph 366.093(3)(d), F.S.

Ruling

Subsection 366.093(1), F.S., provides that records the Commission has found to contain proprietary business information shall be kept confidential and shall be exempt from Chapter 119, F.S. Subsection 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. Subsection 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 service on favorable terms.
- (e) Information relating to competitive interests, the disclosure of which would impair the competitive business of the provider of the information.

Nothing has changed since the classification of the Audit No. 15-051-2-1 materials as confidential in December 2015. Upon review, it appears the information and data provided in this request satisfies the criteria set forth in Subsection 366.093(3), F.S., for classification as proprietary confidential business information. The information related to hedging activities appears to be “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” and “information relating to competitive interests, the disclosure of which would impair the competitive business of the provider of the information.” Thus the information identified in Document No. 06302-15, x-ref. 05862-15, shall be granted confidential classification.

Pursuant to Subsection 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 Subsection 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 Andrew Giles Fay, as Prehearing Officer, that Duke Energy Florida, LLC’s Third Request for Extension of Confidential Classification for portions of Audit No. 15-051-2-1 (Document No. 06302-15, x-ref. 05862-15) is granted. It is further

ORDERED that the information in Document No. 06302-15, x-ref. 05862-15, 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 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 Andrew Giles Fay, as Prehearing Officer, this 25th day of January, 2021.



ANDREW GILES FAY
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.