

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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

DOCKET NO. 20230001-EI
ORDER NO. PSC-2023-0016-CFO-EI
ISSUED: January 5, 2023

ORDER GRANTING DUKE ENERGY FLORIDA, LLC'S
REQUEST FOR CONFIDENTIAL CLASSIFICATION
(DOCUMENT NO. 04109-2022, X REF. 04760-2022)

On July 6, 2022, 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 its Request for Confidential Classification (Request) of information contained in its response to Office of Public Counsel's (OPC) Fifth Request for Production of Documents No. 43 (Document No. 04109-2022). DEF filed its Notice of Intent to request confidentiality for this document on June 17, 2022 (Document No. 04088-2022). On July 14, 2022, DEF provided pages marked 20220001-DEF-002547 through 20220001-DEF-002551 (Document No. 04760-2022) which had been omitted in error from Document No. 04109-2022 and requested that these be included in the previously filed Document No. 04109-2022.

Request for Confidential Classification

DEF contends that certain information contained in OPC's Fifth Request for Production of Documents No. 43, submitted separately and labeled as Exhibit A on June 20, 2022, and updated on July 14, 2022 (Document Nos. 04109-2022 and 04760-2022), is proprietary confidential business information within the meaning of Section 366.093(3), F.S., and requires confidential classification.

DEF contends that the information is proprietary and confidential business information within the meaning of Section 366.093(3), F.S. This information is intended to be and is treated as confidential by DEF, and the information has not been disclosed to the public. More specifically, the information contained in DEF's response to OPC's Fifth Request for Production of Documents No. 43 consists of a report referenced in DEF's response to OPC's Fifth Set of Interrogatories No. 77. The report provides an activity timeline from March to July 31, 2022 and a root cause analysis of the March 2022 forced outage associated with the Hines Power Block 4. This information contains component design and operation parameters proprietary to General Electric and subject to non-disclosure agreements with DEF. DEF argues that disclosure of this information would negatively impact DEF's ability to negotiate for services at the least cost rate. Therefore, DEF contends that this information is protected by Section 366.093(3)(d), F.S. Further, releasing the equipment specifications and contract data would impair the competitive businesses of both DEF and General Electric in violation of Section 366.093(3)(e), F.S.

Ruling

Section 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. 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 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.

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 described above appears to be information concerning contractual data, the disclosure of which could impair the competitive business of DEF and General Electric. Further, disclosure of this information could adversely affect DEF's future ability to negotiate contracts at the lowest price for repair services if companies are aware DEF must disclose that company's proprietary information. Thus, the information identified in Document No. 04109-2022, x-ref. 04760-2022, 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 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 Mike La Rosa, as Prehearing Officer, that Duke Energy Florida, LLC's Request for Confidential Classification for the information contained in its response to OPC's Fifth Request for Production of Documents No. 43, Document No. 04109-2022, x-ref. 04760-2022, is granted. It is further

ORDERED that the information in Document No. 04109-2022, x-ref. 04760-2022, 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 Mike La Rosa, as Prehearing Officer, this 5th day of January, 2023.



Mike La Rosa
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.