

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Nuclear cost recovery clause.

DOCKET NO. 140009-EI  
ORDER NO. PSC-14-0065-CFO-EI  
ISSUED: January 29, 2014

ORDER GRANTING DUKE ENERGY FLORIDA, INC.'S REQUEST FOR CONFIDENTIAL  
CLASSIFICATION (DOCUMENT NO. 02827-13)

On March 1, 2013, pursuant to Section 366.093, Florida Statutes (F.S.), and Rule 25-22.006, Florida Administrative Code (F.A.C.), Duke Energy Florida, Inc. (DEF) filed a request for confidential classification of information (Request) provided as part of its March 1, 2013 petition for approval of costs to be recovered. (Document No. 02827-13). This Request was filed in Docket No. 130009-EI.

Request for Confidential Classification

Section 366.093(1), F.S., provides that records the Florida Public Service Commission (Commission) has found to contain proprietary business information shall be kept confidential and 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. Sections 366.093(d) and (e), F.S., provide 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 services on favorable terms.
- (e) Information relating to competitive interests, the disclosure of which would impair the competitive business of the provider of the information."

DEF contends that the information provided in its March 1, 2013 filing, (Document No. 02827-13), as more specifically described in Exhibit C attached to DEF's Request, falls within these categories and constitutes proprietary confidential business information entitled to protection under Section 366.093, F.S., and Rule 25-22.006, F.A.C. DEF states that this information is intended to be and is treated by DEF as private and has not been publicly disclosed.

DEF asserts that the information in the filing contains portions of testimony and exhibits from Mr. Thomas Foster, Mr. Christopher Fallon and Mr. Gary Miller that contain confidential proprietary business information regarding the contracts for equipment, materials and services necessary for the construction and operation of the Levy Nuclear Power Project (LNP) and the

Crystal River Unit 3 (CR3) Power Uprate Project. More specifically, DEF states that it is implementing an Extended Power Uprate (EPU) close out plan resulting from the decision to retire CR3 and that DEF is conducting an analysis to determine the most cost effective and beneficial disposition decisions for each pending EPU contract or purchase order. Portions of Mr. Miller's testimony and exhibits contain contractual quantities, timing, pricing arrangements and payments made between DEF and third parties that would adversely impact DEF's competitive business interests with regard to the EPU close out if such information was disclosed to the public. Mr. Fallon's testimony contains confidential information regarding DEF's Engineering, Procurement and Construction Contract (EPC Agreement) as well as information relating to decisions regarding the disposition of items of long lead equipment for the LNP. The disclosure of this information would impair DEF's competitive business interests and ability to negotiate favorable contracts, as well as violate certain nondisclosure provisions of these contracts. Therefore, DEF contends that such information constitutes "proprietary confidential business information," which is exempt from disclosure under the Public Records Act pursuant to Sections 366.093(1) and (3)(d), (e), F.S.

#### Time Period For Confidential Classification

DEF requests confidential classification for this information for a period of 18 months. According to Section 366.093(4), F.S., confidential classification may only extend for up to 18 months from the issuance of an Order granting confidential classification unless "the Commission finds, for good cause, that the protection from disclosure shall be for a specified longer period."

#### Ruling

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 appears to be "[i]nformation 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 "[i]nformation 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. 02827-13 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 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 Section 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

ORDERED by Commissioner Julie I. Brown, as Prehearing Officer, that Duke Energy Florida, Inc.'s Request for Confidential Classification of Document No. 02827-13 is granted. It is further

ORDERED that the information in Document No. 02827-13 for which confidential classification has been granted shall remain protected from disclosure for a period of 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 Julie I. Brown, as Prehearing Officer, this 29th day of January, 2014.



JULIE I. BROWN  
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.

MTL

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.