

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for determination of need for  
Citrus County combined cycle power plant, by  
Duke Energy Florida, Inc.

DOCKET NO. 140111-EI  
ORDER NO. PSC-14-0441-CFO-EI  
ISSUED: August 25, 2014

ORDER GRANTING DUKE ENERGY FLORIDA, INC.'S REQUEST FOR CONFIDENTIAL  
CLASSIFICATION (DOCUMENT NO. 03049-14)

On June 17, 2014, 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) concerning portions of Exhibit BMHB-1 to the Direct Testimony of Benjamin M.H. Borsch, Exhibits KD-1 and KD-2 to the Direct Testimony of Kevin Delehanty, Exhibits ES-2 and ES-3 to the Direct Testimony of Ed Scott, and portions of Exhibit AST-1 to the Direct Testimony of Alan Taylor (Document No. 03049-14). This Request was filed in Docket No. 140111-EI.

Request for Confidential Classification

DEF contends that the information provided in its filing on June 17, 2014, as more specifically described in Exhibit C attached to DEF's Request, constitutes proprietary confidential business information entitled to protection under Section 366.093, F.S., and Rule 25-22.006, F.A.C. DEF argues that this information is intended to be and is treated by DEF as private and has not been publicly disclosed.

DEF asserts that Exhibit BMHB-1 contains confidential and sensitive information and numbers regarding the need determination study to construct a 1640 MW (summer rating) state-of-the-art natural gas-fired, combined cycle power plant to meet the need for additional generating capacity in 2018, the disclosure of which would impair DEF's competitive business interests and ability to negotiate favorable contracts, as well as violate contractual nondisclosure provisions of bidders. In order to obtain proposals, DEF must be able to ensure potential bidders that the terms of their bids will be kept confidential. If such assurances are not provided, potential bidders know that the terms of their bids are subject to public disclosure, they might withhold sensitive information necessary for the Utility to fully understand and accurately assess the costs and benefits of their proposals. Persons or companies who otherwise would have submitted bids in response to the Utility's RFP might not do so if there is no assurance that their proposals would be protected from disclosure.

Additionally, DEF is requesting confidentiality classification of Exhibits KD-1 and KD-2. These exhibits contain confidential information of the Utility's forecasts of pricing. This information would adversely impact DEF's competitive business interests if disclosed to third parties. As such, this information qualifies as "information relating to competitive interests, the disclosure of which would impair the competitive business of the provider of the information," and as proprietary confidential business information under subsection 366.093(3)(e), Fla. Stat.

DEF is also requesting confidentiality classification of Exhibit ES-2 and ES-3. Exhibit ES-2 is the confidential transmission groups evaluated in the Utility's transmission screening studies of the 2018 RFP proposals in accordance with the 2018 RFP. Exhibit ES-3 is a confidential description of the potential generating facility acquisitions evaluated for transmission cost impacts to the DEF transmission system. If third parties were to know DEF's specific transmission needs, they could increase the price of those goods and services.

DEF is also requesting confidentiality classification of portions of Exhibit AST-1 as well. Exhibit AST-1 is a confidential review and evaluation of the Utility's 2013 solicitation and responses for competitive power supplies. Disclosure of any of this information would adversely impact DEF's competitive business interests. Specifically, the information at issue relates to competitively negotiated contractual data the disclosure of which would impair the efforts of the Utility to negotiate on favorable terms. The Utility must be able to assure these vendors that sensitive business information will be kept confidential. Indeed, most of the contracts at issue contain confidentiality provisions that prohibit the disclosure of the terms of the contract to third parties. If third parties became aware of the contractual terms and conditions that the Utility has with other parties, they may offer DEF less competitive contractual terms and conditions in any future contractual negotiations. Without DEF's measures to maintain the confidentiality of sensitive terms in contracts between DEF and these contractors, the Utility's efforts to obtain competitive contracts would be undermined.

### Ruling

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 Utility as private, in that disclosure of the information would cause harm to the Utility's ratepayers or business operations, and has not been voluntarily disclosed to the public. Section 366.093, 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 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.

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 information concerning bids or other contractual data, the disclosure of which would impair the efforts of DEF or its affiliates to contract for goods or services on favorable terms. The information also contains information relating to competitive interests, the disclosure of which would impair the competitive business of the provider of said information.

Therefore, the information identified in Document No. 03049-14 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 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.

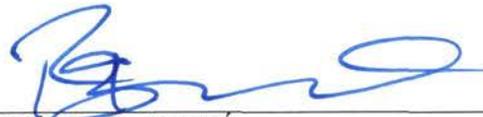
Based on the foregoing, it is hereby

ORDERED by Commissioner Ronald A. Brisé, as Prehearing Officer, that Duke Energy Florida Inc.'s Request for Confidential Classification is granted. It is further

ORDERED that the information identified in Document No. 03049-14 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 Ronald A. Brisé, as Prehearing Officer, this 25th day of August, 2014.



RONALD A. BRISÉ  
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.

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.

Any party adversely affected by the Commission's final action in this matter may request: 1) reconsideration of the decision by filing a motion for reconsideration with the Office of Commission Clerk, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, within fifteen (15) days of the issuance of this order in the form prescribed by Rule 25-22.060, 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 and/or wastewater utility by filing a notice of appeal with the Office of Commission Clerk, and filing a copy of the notice of appeal and the filing fee with the appropriate court. This filing must be completed within thirty (30) days after the issuance of this order, pursuant to Rule 9.110, Florida Rules of Appellate Procedure. The notice of appeal must be in the form specified in Rule 9.900(a), Florida Rules of Appellate Procedure.