

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Nuclear Cost Recovery
Clause

Docket No. 140009-EI
Submitted for Filing: August 26, 2014

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**DUKE ENERGY FLORIDA, INC.'S EIGHTH REQUEST FOR
CONFIDENTIAL CLASSIFICATION REGARDING
PORTIONS OF HEARING EXHIBITS**

Duke Energy Florida, Inc. ("DEF" or the "Company"), pursuant to Section 366.093, Florida Statutes, and Rule 25-22.006(3), Florida Administrative Code, files this Request for Confidential Classification regarding portions of hearing exhibits 98, 99, and 101 entered into evidence at the final hearing in the above referenced docket. These exhibits contain confidential and proprietary contractual equipment cost and project schedule information, the disclosure of which would impair DEF's competitive business interests, as well as other information the disclosure of which would harm the Company's competitive business interests. The information in these exhibits meets the definition of proprietary confidential business information per section 366.093(3), Florida Statutes. The unredacted exhibits are being filed under seal with the Commission on a confidential basis to keep the competitive business information in the exhibits confidential.

- COM _____
- AFD 1
- APA 1
- ECO 1
- ENG 1
- GCL 1
- DM 2+7+8+9
- TEL _____
- CLK _____

BASIS FOR CONFIDENTIAL CLASSIFICATION

Section 366.093(1), Florida Statutes, provides that "any records received by the Commission which are shown and found by the Commission to be proprietary confidential business information shall be kept confidential and shall be exempt from [the Public Records Act]." § 366.093(1), Fla. Stat. Proprietary confidential business information means information that is (i) intended to be and is treated as private confidential information by the Company, (ii)

because disclosure of the information would cause harm, (iii) either to the Company's customers or the Company's business operation, and (iv) the information has not been voluntarily disclosed to the public. § 366.093(3), Fla. Stat. Specifically, "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" is defined as proprietary confidential business information. § 366.093(3)(d), Fla. Stat. Additionally, section 366.093(3)(e) defines "information relating to competitive interests, the disclosure of which would impair the competitive business of the provider of the information," as proprietary confidential business information.

Portions of the aforementioned exhibits (collectively the "responsive information") should be afforded confidential classification for the reasons set forth in the Affidavit of Christopher M. Fallon filed in support of DEF's Request for Confidential Classification, and for the following reasons.

Hearing exhibits 98, 99, and 101 contain sensitive proprietary and confidential information, including equipment pricing and project schedule information, related to and derived from contractual agreements necessary for the Levy Nuclear Project ("LNP") including the Engineering, Procurement and Construction Agreement ("EPC Agreement"). The EPC Agreement includes confidentiality and non-disclosure provisions that forbid the public disclosure of this information.

DEF considers the information in these exhibits to confidential and proprietary and continues to take steps to protect against its public disclosure, including limiting the personnel who have access to this information. Affidavit of Fallon, ¶ 4. Public release of this information would harm the Company's ability to contract for necessary goods and services by signaling to

the parties with whom DEF attempts to contract that the Company will not be able to maintain the confidentiality of the parties' contractual agreements. See id. The Company treats this information as confidential and does not allow its publication to the public. Moreover, this information meets the definition of proprietary confidential business information under section 366.093(3)(d) and (e), Florida Statutes.

Further, the Company has established and follows strict procedures to maintain the confidentiality of the terms of all of the confidential documents and information at issue, including restricting access to those persons who need the information and documents to assist the Company. See id. at ¶ 7.

At no time has the Company publicly disclosed the confidential information or documents at issue; DEF has treated and continues to treat the information and documents at issue as confidential. See id. at ¶¶ 5-7.

DEF requests this information be granted confidential treatment by the Commission.

Conclusion

The competitive, confidential information at issue in this Request fits the statutory definition of proprietary confidential business information under Section 366.093, Florida Statutes, and Rule 25-22.006, F.A.C., and therefore that information should be afforded confidential classification. In support of this motion, DEF has enclosed the following:

(1) A separate, sealed envelope containing one copy of the confidential Appendix A to DEF's Request for which DEF intends to request confidential classification with the appropriate section, pages, or lines containing the confidential information highlighted. **This information should be accorded confidential treatment pending a decision on DEF's Request by the Commission;**

(2) Two copies of the documents with the information for which DEF intends to request confidential classification redacted by section, pages, or lines where appropriate as Appendix B; and,

(3) A justification matrix of the confidential information contained in Appendix A supporting DEF's Request, as Appendix C.

WHEREFORE, DEF respectfully requests that the redacted portions of the hearing exhibits 98, 99, and 101 be classified as confidential for the reasons set forth above.

Respectfully submitted on this 26th day of August, 2014:

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY a true and correct copy of the foregoing has been furnished to counsel and parties of record as indicated below via electronic mail and U.S. Mail this 26th day of August, 2014.

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DUKE ENERGY FLORIDA
In re: Nuclear Cost Recovery Clause
Docket 140009-EI
Eighth Request for Confidential Classification

Exhibit B

EXHIBIT NO. 98

DOCKET NO: 140009-EI

REDACTED

WITNESS: Fallon

PARTY: Duke Energy Florida

DESCRIPTION: Long Lead Equipment Assessment, April 2011

DOCUMENTS:

PROFFERED BY: OFFICE OF PUBLIC COUNSEL

Docket No. 140009-EI
Duke Energy Florida
Exhibit No. _____
Pages 1 through 17

Hearing Exhibit No. 98
Pages 1 through 17
Bates Nos. 14NC-OPCPOD1-17-000001
through
14NC-OPCPOD1-17-000017

REDACTED IN ITS ENTIRETY

EXHIBIT NO. 99

DOCKET NO: 140009-EI

REDACTED

WITNESS: Fallon

PARTY: Duke Energy Florida

DESCRIPTION: January 16, 2014 WEC/Duke Meeting Notes
(Fallon Deposition Exh. 8)

DOCUMENTS:

PROFFERED BY: OFFICE OF PUBLIC COUNSEL

Docket No. 140009-EI
Duke Energy Florida
Exhibit No. _____
Page 1 OF 1

Hearing Exhibit No. 99
Bates Nos.
14NC-OPCPOD1-24-000001

REDACTED IN ITS ENTIRETY

EXHIBIT NO. 101

DOCKET NO: 140009-EI

REDACTED

WITNESS: Fallon

PARTY: Duke Energy Florida

DESCRIPTION: August 3, 2010 Elnitsky Testimony Excerpt
pp. 17-19

DOCUMENTS:

PROFFERED BY: OFFICE OF PUBLIC COUNSEL

Redacted

1 In any event, PEF has included as Exhibit No. ___ (JE-6) to my testimony the
2 Company's express evaluation of the costs of continuing with the project by amending
3 the EPC agreement and focusing on obtaining the COL and then cancelling the project.
4 This is called "Option 4" in Exhibit No. ___ (JE-6) and this is the option that Jacobs says
5 PEF should have evaluated. As I have explained, PEF evaluated this "Option 4" because
6 the costs of this "option" were inherent in PEF's evaluation of all options for the LNP.

7 As you can see in Exhibit No. ___ (JE-6), "Option 4" includes the [REDACTED]
8 in costs for "Option 3," Continued Partial Suspension, because PEF will incur these costs
9 over the next three years to obtain the COL for the LNP. These are the same costs that
10 are included in the SMC presentations included in Exhibit No. ___ (JL-6) to Mr. Lyash's
11 direct testimony and Exhibit No. ___ (JE-2) to my direct testimony.

12 In addition, if PEF cancels shortly after obtaining the COL, PEF will incur
13 incremental costs estimated at [REDACTED] See Exhibit No. ___ (JE-6) to my
14 testimony. These costs include the [REDACTED] under the EPC and fuels contracts
15 that are identified in the cancellation option included in Exhibit No. ___ (JL-6) to Mr.
16 Lyash's direct testimony and Exhibit No. ___ (JE-2) to my direct testimony. These costs
17 also include the estimated balance of [REDACTED] on the equipment costs for selected
18 long lead equipment ("LLE") compared to option 2, project cancellation, in Exhibit No.
19 ___ (JL-6) to Mr. Lyash's testimony. Finally, the incremental costs for this option
20 include incremental legal and other project wind-down costs that were also identified in
21 option 2, project cancellation, in Exhibit No. ___ (JL-6) to Mr. Lyash's testimony. As a
22 result, the nature and in most cases the amount of the estimated costs of this "Option 4"
23 that Jacobs says PEF should have evaluated are contained within the Company's

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presentations to management regarding the project options and this "option" was therefore an inherent part of the Company's evaluation of the project options.

The total estimated cost to cancel the project shortly after obtaining the COL under "Option 4" is [REDACTED]. This includes the estimated [REDACTED] to continue with the partial suspension and obtain the COL and the incremental, estimated [REDACTED] in cancellation and project wind-down costs to cancel the project after obtaining the COL. It bears emphasis that the estimated incremental costs are conservatively high. PEF has not offset these costs with salvage value for equipment that will be completed and available commercially for new or replacement parts on other projects. PEF has also conservatively included the full balance of the LLE disposition costs from the project cancellation option in this option even though PEF will continue with LLE payments under this option for three additional years and therefore lowering the final disposition costs for this equipment if the project is cancelled after the COL is obtained.

The estimated costs of [REDACTED] to continue with the partial suspension of the project and shortly after we obtain the COL we cancel the project, is higher than the estimated cost of [REDACTED] to cancel the project in early 2010 at the time PEF made its decision. See Exhibit No. ___ (JL-6) to Mr. Lyash's testimony. The difference in the estimated costs of these options necessarily follows from the fact that the cancellation decisions are not made at the same time under these two options.



DUKE ENERGY FLORIDA
DOCKET NO. 140009-EI
Eighth Request for Confidential Classification
Confidentiality Justification Matrix

DOCUMENT	PAGE/LINE/ COLUMN	JUSTIFICATION
Hearing Exhibit No. 98, Witness Fallon, DEF Long Lead Equipment Assessment, April 2011, Bates Nos. 14NC-OPCPOD1-17-000001 through 14NC-OPCPOD1-17-000017	All pages in their entirety	<p>§366.093(3)(d), Fla. Stat. The document in question contains confidential contractual information, the disclosure of which would impair PEF's efforts to contract for goods or services on favorable terms.</p> <p>§366.093(3)(e), Fla. Stat. The document portions in question contain confidential information relating to competitive business interests, the disclosure of which would impair the competitive business of the provider/owner of the information.</p>
Hearing Exhibit No. 99, Witness Fallon, January 16, 2014 WEC/Duke Meeting Notes, Fallon Deposition Exhibit 8, Bates No. 14NC-OPCPOD1-24-000006	Page in its entirety	<p>§366.093(3)(d), Fla. Stat. The document in question contains confidential contractual information, the disclosure of which would impair PEF's efforts to contract for goods or services on favorable terms.</p> <p>§366.093(3)(e), Fla. Stat. The document portions in question contain confidential information relating to competitive business interests, the disclosure of which would impair the competitive business of the provider/owner of the information.</p>
Hearing Exhibit 101, Witness Fallon, August 3, 2010 Elnitsky Testimony Except, pp. 17-19	Page 18, Line 7, last two words, Line 13, fifth and sixth words, Line 14, sixth and seventh words, Line 17, seventh and eighth words; Page 19, Line 4,	<p>§366.093(3)(d), Fla. Stat. The document in question contains confidential contractual information, the disclosure of which would impair PEF's efforts to contract for goods or services</p>

**DUKE ENERGY FLORIDA
DOCKET NO. 140009-EI
Eighth Request for Confidential Classification
Confidentiality Justification Matrix**

DOCUMENT	PAGE/LINE/ COLUMN	JUSTIFICATION
	fifth, sixth, eleventh and twelfth words, Line 6, first two words, Line 15, fifth and sixth words, Line 17, fourth and fifth words	on favorable terms. §366.093(3)(e), Fla. Stat. The document portions in question contain confidential information relating to competitive business interests, the disclosure of which would impair the competitive business of the provider/owner of the information.