

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. 140110-EI
ORDER NO. PSC-14-0578-CFO-EI
ISSUED: October 14, 2014

ORDER GRANTING DUKE ENERGY FLORIDA, INC.'S REQUEST FOR CONFIDENTIAL
CLASSIFICATION (DOCUMENT NO. 05043-14)

On September 10, 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 the August 11, 2014, Deposition Transcript of Benjamin M.H. Borsch. This Request was filed in Docket No. 140110-EI.

Request for Confidential Classification

DEF contends that the information provided in its filing on September 10, 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 is requesting confidential classification of portions of Mr. Borsch's deposition transcript because it contains confidential competitive business and strategic planning information, confidential contractual information, and competitively sensitive confidential information of other parties, the release of which would harm competitive business interests and potentially violate contractual non-disclosure agreements. The disclosure of this information would adversely impact DEF's and other parties' competitive business interests. DEF must be able to assure bidders and suppliers that sensitive business information will be kept confidential. If such assurances are not provided and 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 Request for proposals might not do so if there is no assurance that their proposals would be protected from disclosure. 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 were made aware of confidential contractual terms and conditions that DEF has with other parties, they may offer DEF less competitive contractual terms and conditions in any future contractual negotiations. Without these measures to maintain the confidentiality of sensitive terms in contracts between DEF and these contractors, DEF's efforts to obtain competitive contracts would be undermined.

Ruling

Section 366.093(1), F.S., provides that records the Florida Public Service 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. 05043-14 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. 05043-14 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 14th day of October, 2014.



RONALD A. BRISE
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.