

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Nuclear cost recovery clause.

DOCKET NO. 140009-EI
ORDER NO. PSC-14-0649-CFO-EI
ISSUED: November 4, 2014

ORDER GRANTING DUKE ENERGY FLORIDA, INC.'S REQUEST FOR EXTENSION OF
CONFIDENTIAL CLASSIFICATION (DOCUMENT NO. 07322-13)

On March 4, 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 its First Request for Extension of Confidential Classification (Request) of certain information contained in Florida Public Service Commission (Commission) Order No. PSC-11-0095-FOF-EI, entered in Docket No. 100009-EI on February 2, 2011 (Order) (Document No. 07322-13).

Request for Confidential Classification

The confidential information contained in the Order was provided to the Commission in DEF's Post-Hearing Statement of Issues and Positions, filed with the Commission on September 10, 2010, in Docket No. 100009-EI (Document No. 07599-10, herein DEF's Post-Hearing Brief). DEF also filed its twenty-sixth (26) Request for Confidential Classification regarding the confidential information included in DEF's Post-Hearing Brief on September 10, 2010, (Document No. 07598-10, Request). On April 8, 2011, Commission Staff returned the confidential information at issue contained in DEF's Post-Hearing Brief, ostensibly rendering the Request moot; however, the confidential information in DEF's Post-Hearing Brief was carried over into the Order.

DEF contends that the designated portions of the information contained in the Order constitute proprietary confidential business information entitled to continued protection under Section 366.093, F.S., and Rule 25-22.006, F.A.C. DEF affirms that this information is intended to be and continues to be treated by DEF as private and has not been publicly disclosed.

As detailed in its Request, which DEF incorporated by reference, the confidential information located on pages 42-45 of the Order includes the Capital Costs of the Levy Nuclear Project ("LNP"). DEF asserts that those costs are contractual in nature and derived from the LNP Engineering, Procurement and Construction ("EPC") agreement. DEF further contends that those contractual figures are confidential by virtue of the terms of the EPC agreement. Moreover, because this contractual information will continue to remain confidential beyond the standard eighteen (18) month time frame provided in Section 366.093(4), F.S., and to ease the administrative burden of receiving multiple requests for extension, DEF requests that the Commission enter an Order granting this information confidential classification for a period of five (5) years. DEF argues that this information is entitled to protection pursuant to Section 366.093(3)(d), F.S.

DEF's Request for Extension incorporates by reference and adopts the arguments propounded in its original request. DEF asserts that the period of confidential treatment of the above-numbered documents is due to expire soon. DEF contends that the information deemed confidential warrants continued treatment as proprietary and confidential business information within the meaning of Section 366.093(3), F.S. DEF further asserts that the confidential information is intended to be and has been treated by DEF as private and its confidential nature has been maintained. DEF also asserts that the disclosure of the information would cause harm to DEF and its customers. Finally, DEF contends that nothing has changed since the filing of the original requests to render the information stale or public, such that continued confidential treatment would not be appropriate.

Ruling

Section 366.093(1), F.S., provides that records that the Commission has found to contain proprietary confidential 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 that has not been voluntarily disclosed to the public. Section 366.093(3), F.S., provides, in pertinent part, 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.

Upon review, it appears the above-referenced information satisfies the criteria set forth in Section 366.093(3), F.S., for continued classification as proprietary confidential business information. The information described above 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. Thus, the information identified in Document No. 07322-13 shall be granted a continuation of 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 five (5) years from the date of issuance of this Order. At the conclusion of the five year 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 Julie I. Brown, as Prehearing Officer, that Duke Energy Florida, Inc.'s Request for Extension of Confidential Classification of the information described in Document No. 07322-13 is granted. It is further

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ORDERED that the information described in Document No. 07322-13, for which confidential classification has been granted, shall remain protected from disclosure for a period of up to five (5) years from the date of issuance of this Order. It is further

ORDERED that this Order will be the only notification by the Commission to the parties concerning the expiration of the confidentiality time period.

By ORDER of Commissioner Julie I. Brown, as Prehearing Officer, this 4th day of November, 2014.

/s/ Julie I. Brown

JULIE I. BROWN

Commissioner and Prehearing Officer

Florida Public Service Commission

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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.