

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for Determination that)
the Osprey Plant Acquisition and,)
alternatively, the Suwannee Simple)
Cycle Project is the most Cost Effective)
Generation Alternative to meet the)
Remaining Need Prior to 2018 for)
Duke Energy Florida, Inc.)

DOCKET NO. 150043-EI

Submitted for filing: May 11, 2015

REDACTED

COMMISSION
CLERK

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RECEIVED - FPSC

**DUKE ENERGY FLORIDA, INC.'S FIFTH REQUEST FOR
CONFIDENTIAL CLASSIFICATION REGARDING RESPONSES TO
STAFF'S SECOND REQUEST FOR PRODUCTION OF DOCUMENTS (NOS. 14-20)**

Duke Energy Florida, Inc. ("DEF" or the "Company"), pursuant to Section 366.093, Florida Statutes, and Rule 25-22.006(3), Florida Administrative Code ("F.A.C."), files this Request for Confidential Classification Regarding Portions of DEF's Response to Staff's Second Request for Production of Documents (Nos. 14-20). Specifically, portions of DEF's responses to Staff's Second Request for Production of Documents Nos. 14, 15, 16, 17, and 18 contain proprietary confidential business and contractual information the disclosure of which would adversely impact DEF's and third parties' competitive business interests and, if publicly disclosed, would violate contractual confidentiality provisions. An unredacted version of the documents discussed above is being filed under seal with the Commission as Appendix A on a confidential basis to keep the competitive business information in those documents confidential.

With respect to the confidential information contained in the response to Staff's discovery requests, DEF filed its Notice of Intent to Request Confidential Classification on April

27, 2015 (Document No. 02341-15). Therefore, pursuant to Rule 25-22.006(3), F.A.C., this request is timely. DEF hereby submits the following in support of its confidentiality request.

- COM _____
- AFD 2
- APA _____
- ECO 2
- ENG 2 + Redacted
- GCL 1
- IDM _____
- 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 ratepayers 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, subsection 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. Subsection 366.093(3)(a) also states that information relating to “trade secrets” qualifies as proprietary confidential business information.

DEF is requesting confidential classification of the documents responsive to Staff’s Second Request for Production of Documents Nos. 14, 15, 16, 17 and 18, specifically as noted above and in the supporting Affidavit of Kevin E. Delehanty ¶¶ 3-4, because the documents contain proprietary and confidential competitive business and forecast information and contractually sensitive commercial information the disclosure of which would adversely impact DEF’s and its vendor’s competitive business interests. Affidavit of Delehanty, ¶ 3. When vendors are providing information to DEF the Company must be able to assure vendors that sensitive business information, including the forecasts provided, 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. Id. If disclosed to third parties, this information would adversely impact DEF's competitive business interests by allowing third parties access to DEF's and its vendor's forecasting expertise and strategic projections. In many instances, DEF is also contractually obligated to preserve the proprietary information and forecasts of its vendors. Id.

Strict procedures are established and followed 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 Delehanty, ¶ 4. 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. Id. 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 Fifth Request for Confidential Classification 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 DEF's response to Staff's Second Request for Production of Documents Nos. 14 through 18 be classified as confidential for the reasons set forth above.

Respectfully submitted this 11th day of May, 2015.

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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 11th day of May, 2015.

/s/ Blaise N. Gamba
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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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the Osprey Plant Acquisition and,
alternatively, the Suwannee Simple
Cycle Project is the most Cost Effective
Generation Alternative to meet the
Remaining Need Prior to 2018 for
Duke Energy Florida, Inc.

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Duke Energy Florida, Inc.'s
Fifth
Request for Confidential Classification

EXHIBIT B

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DOCKET NO. 150043-EI

Documents bearing Bates Nos.

15LGBRA-STAFFPOD2-14-000001

through

15LGBRA-STAFFPOD2-14-000006

are redacted in their entirety

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DOCKET NO. 150043-EI

Documents bearing Bates Nos.

15LGBRA-STAFFPOD2-15-000001

through

15LGBRA-STAFFPOD2-15-000003

are redacted in their entirety

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DOCKET NO. 150043-EI

Documents bearing Bates Nos.

15LGBRA-STAFFPOD2-16-000001

through

15LGBRA-STAFFPOD2-16-000003

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Documents bearing Bates No.

15LGBRA-STAFFPOD2-17-000001

Is redacted in its entirety

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Documents bearing Bates Nos.

15LGBRA-STAFFPOD2-18-000001

through

15LGBRA-STAFFPOD2-18-000005

are redacted in their entirety

DUKE ENERGY FLORIDA
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Fifth Request for Confidential Classification
Confidentiality Justification Matrix

DOCUMENT	PAGE/LINE/ COLUMN	JUSTIFICATION
<p>Duke Energy Florida, Inc.'s Responses to Staff's Second Request for Production No. 14, Bates Nos. 15LGBRA-STAFFPOD2-14-000001 through 15LGBRA-STAFFPOD2-14-000006</p>	<p>All worksheets in their entirety</p>	<p>§366.093(3)(a), Fla. Stat. The document in question contains proprietary confidential information relating to trade secrets, the disclosure of which would impair DEF or third parties business operations.</p> <p>§366.093(3)(d), Fla. Stat. The document portions in question contain confidential contractual information, the disclosure of which would impair DEF'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>
<p>Duke Energy Florida, Inc.'s Responses to Staff's Second Request for Production No. 14, Bates Nos. 15LGBRA-STAFFPOD2-15-000001 through 15LGBRA-STAFFPOD2-15-000003</p>	<p>All worksheets in their entirety</p>	<p>§366.093(3)(a), Fla. Stat. The document in question contains proprietary confidential information relating to trade secrets, the disclosure of which would impair DEF or third parties business operations.</p> <p>§366.093(3)(d), Fla. Stat. The document portions in question contain confidential contractual information, the disclosure of which would impair DEF's efforts to contract for goods or services on favorable terms.</p> <p>§366.093(3)(e), Fla. Stat. The document portions in question</p>

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Confidentiality Justification Matrix**

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		<p>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>
<p>Duke Energy Florida, Inc.'s Responses to Staff's Second Request for Production No. 14, Bates Nos. 15LGBRA-STAFFPOD2-16-000001 through 15LGBRA-STAFFPOD2-16-000003</p>	<p>All worksheets in their entirety</p>	<p>§366.093(3)(a), Fla. Stat. The document in question contains proprietary confidential information relating to trade secrets, the disclosure of which would impair DEF or third parties business operations.</p> <p>§366.093(3)(d), Fla. Stat. The document portions in question contain confidential contractual information, the disclosure of which would impair DEF'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>
<p>Duke Energy Florida, Inc.'s Responses to Staff's Second Request for Production No. 14, Bates Nos. 15LGBRA-STAFFPOD2-17-000001</p>	<p>Worksheet in its entirety</p>	<p>§366.093(3)(a), Fla. Stat. The document in question contains proprietary confidential information relating to trade secrets, the disclosure of which would impair DEF or third parties business operations.</p> <p>§366.093(3)(d), Fla. Stat. The document portions in question contain confidential contractual information, the disclosure of which</p>

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		<p>would impair DEF'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>
<p>Duke Energy Florida, Inc.'s Responses to Staff's Second Request for Production No. 14, Bates Nos. 15LGBRA-STAFFPOD2-18-000001 through 15LGBRA-STAFFPOD2-18-000005</p>	<p>All worksheets in their entirety</p>	<p>§366.093(3)(a), Fla. Stat. The document in question contains proprietary confidential information relating to trade secrets, the disclosure of which would impair DEF or third parties business operations.</p> <p>§366.093(3)(d), Fla. Stat. The document portions in question contain confidential contractual information, the disclosure of which would impair DEF'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>