

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Nuclear cost recovery clause.

DOCKET NO. 20170009-EI  
ORDER NO. PSC-2017-0297-CFO-EI  
ISSUED: August 2, 2017

ORDER GRANTING DUKE ENERGY FLORIDA, LLC'S REQUEST FOR CONFIDENTIAL CLASSIFICATION OF AUDIT CONTROL NUMBERS 17-006-2-1 AND 17-006-2-2 (DOCUMENT NO. 05216-17 [x ref. DNs. 05073-17 and 05075-17])

On June 8, 2017, pursuant to Section 366.093, Florida Statutes (F.S.), and Rule 25-22.006, Florida Administrative Code (F.A.C.), Duke Energy Florida, LLC (DEF or Company), filed a Request for Confidential Classification (request) of information provided in DEF's workpapers produced in response to Commission staff's Audit Control Nos. 17-006-2-1 and 17006-2-2 (audit workpapers) (Document No. 05216-17 [x ref. DNs. 05073-17 and 05075-17]). This Request was filed in Docket No. 20170009-EI.

Request for Confidential Classification

DEF is seeking confidential classification of portions of audit workpapers highlighted in yellow within Exhibit A, and more specifically identified by page, line, and statutory justification within Exhibit C attached to its request. DEF asserts that this information is intended to be and is treated by DEF as private and has not been publicly disclosed. DEF states that strict procedures are established and followed to maintain the confidentiality of the terms of all confidential documents and information currently at issue.

Attached to DEF's request is Exhibit D, which contains the affidavits of Christopher M. Fallon and Thomas G. Foster in support of DEF's request. According to DEF, the audit workpapers contain original cost amounts under the Company's Engineering, Procurement, and Construction contract (EPC Agreement), long lead equipment disposition and settlement terms, and confidential and competitively sensitive contractual information. DEF states that if this information were publicly disclosed, it would undermine the Company's efforts to obtain competitive contracts with contractors and suppliers.

DEF also contends that the audit workpapers contain confidential and sensitive business information relating to employee salaries. DEF argues that the hiring and retention of skilled personnel is among the most highly competitive functions within DEF's overall operations, and that public disclosure of employee salaries would place the Company at a disadvantage against competitors for skilled employees by giving them otherwise unavailable knowledge regarding their compensation. As a result, DEF argues, the audit workpapers should be afforded confidential treatment pursuant to Sections 366.093(3)(d), (e), and (f), F.S.

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 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 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.
- (f) Employee personnel information unrelated to compensation, duties, qualifications, or responsibilities.

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, information relating to competitive interests, the disclosure of which would impair the competitive business of the provider of the information, and employee personnel information unrelated to compensation, duties, qualifications, or responsibilities. Thus, the information identified in Document No. 05216-17 (x ref. DNs. 05073-17 and 05075-17) 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, LLC's Request for Confidential Classification of Document No. 05216-17 (x ref. DNs. 05073-17 and 05075-17) is granted. It is further

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ORDERED that the information in Document No. 05216-17 (x ref. DN's. 05073-17 and 05075-17), 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 2nd day of August, 2017.



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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.

KRM

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.