

## FILED 8/21/2020 DOCUMENT NO. 04815-2020 FPSC - COMMISSION CLERK PARTNER

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August 21, 2020

#### **VIA ELECTRONIC FILING**

Mr. Adam Teitzman, Commission Clerk Florida Public Service Commission 2540 Shumard Oak Boulevard Tallahassee, FL 32399-0850

In re: Petition by Duke Energy Florida, LLC for Approval of Actual Storm

Restoration Costs and Associated Recovery Process Related to Hurricane

Michael and Tropical Storm Alberto; Docket No. 20190110-EI

#### Dear Mr. Teitzman:

Please find enclosed for electronic filing on behalf of Duke Energy Florida, LLC ("DEF"), DEF's Sixth Request for Confidential Classification filed in connection with the information contained within DEF's responses to interrogatory numbers 155 and 163 of Sixth Set of Interrogatories to Duke Energy Florida, LLC (Nos. 154-170) and the documents produced with DEF's response to request numbers 33, 34, and 41 of Citizens' Fourth Request for Production of Documents (Nos. 28-41) served on August 21, 2020. This filing includes the following:

- DEF's Sixth Request for Confidential Classification;
- Slip-sheet for confidential Exhibit A;
- Redacted Exhibit B (two copies);
- Exhibit C (justification matrix); and
- Composite Exhibit D (affidavits of Jason Cutliffe and Tom Morris).

DEF's confidential Exhibit A that accompanies the above-referenced filing has been submitted under separate cover.

Mr. Adam Teitzman, Commission Clerk Florida Public Service Commission **August 21, 2020** Page 2

Thank you for your assistance in this matter. Please feel free to call me at (813) 227-8114 should you have any questions concerning this filing.

Respectfully,

Shutts & Bowen LLP

/s/ Daniel Hernandez

Daniel Hernandez

Enclosure (as noted)

TPADOCS 23230394 1

#### BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

Filed:

In re: Petition by Duke Energy Florida, LLC for limited proceeding for recovery of incremental storm restoration costs related to Hurricane Michael and Tropical Storm Alberto.

August 21, 2020

### DUKE ENERGY FLORIDA, LLC'S SIXTH REQUEST FOR CONFIDENTIAL CLASSIFICATION

Duke Energy Florida, LLC, ("DEF" or "Company"), pursuant to Section 366.093, Florida Statutes (F.S.), and Rule 25-22.006, Florida Administrative Code (F.A.C.), submits this Sixth Request for Confidential Classification (the "Request") for certain information contained within DEF's responses to Citizens' Sixth Set of Interrogatories to Duke Energy Florida, LLC (Nos. 154-170) and the documents produced with DEF's response to Citizens' Fourth Request for Production of Documents (Nos. 28-41) served on August 5, 2020. In support of this Request, DEF states:

- 1. Portions of the information contained within DEF's responses to interrogatory numbers 155 and 163 of Sixth Set of Interrogatories to Duke Energy Florida, LLC (Nos. 154-170) and the documents produced with DEF's response to request numbers 33, 34, and 41 of Citizens' Fourth Request for Production of Documents (Nos. 28-41) are "proprietary confidential business information" under Section 366.093(3), Florida Statutes.
  - 2. The following exhibits are included with this Request:
- (a) Sealed **Exhibit A** is a package containing an unredacted copy of the portions of the information contained within DEF's responses to interrogatory numbers 155 and 163 of Sixth Set of Interrogatories to Duke Energy Florida, LLC (Nos. 154-170) and the

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documents produced with DEF's response to request numbers 33, 34, and 41 of Citizens' Fourth Request for Production of Documents (Nos. 28-41), for which DEF seeks confidential treatment.

Exhibit A is being submitted separately in a sealed envelope labeled "CONFIDENTIAL." In the unredacted copy, the information asserted to be confidential is highlighted in yellow.

- (b) **Composite Exhibit B** is two copies of the redacted information contained within DEF's responses to interrogatory numbers 155 and 163 of Sixth Set of Interrogatories to Duke Energy Florida, LLC (Nos. 154-170) and the documents produced with DEF's response to request numbers 33, 34, and 41 of Citizens' Fourth Request for Production of Documents (Nos. 28-41), for which the Company requests confidential classification. The specific information for which confidential treatment is requested has been blocked out by opaque marker or other means.
- (c) **Exhibit C** is a table which identifies, by the page and specific portions of the information contained within DEF's responses to interrogatory numbers 155 and 163 of Sixth Set of Interrogatories to Duke Energy Florida, LLC (Nos. 154-170) and the documents produced with DEF's response to request numbers 33, 34, and 41 of Citizens' Fourth Request for Production of Documents (Nos. 28-41), the information for which DEF seeks confidential classification and the specific statutory bases for seeking confidential treatment.
- (d) **Composite Exhibit D** contains two affidavits attesting to the confidential nature of the information identified in this Request.<sup>1</sup>
- 3. As indicated in **Exhibit C**, the information for which DEF requests confidential classification is "proprietary confidential business information" within the meaning of Section 366.093(3), F.S. Specifically, the information at issue includes the Company's contractual rate

<sup>&</sup>lt;sup>1</sup>Due to the current circumstances with COVID-19, DEF is submitting this Request for Confidential Classification with Unverified Affidavits. DEF will file Verified Affidavits as soon as conditions allow.

information with third-party vendors. DEF must ensure that sensitive business information such as contractual business information is kept confidential, the disclosure of which would impair the Company's competitive business advantages. Therefore, the confidential information at issue qualifies for confidential classification. *See* §§ 366.093(3)(d), F.S.; Affidavit of Tom Morris at ¶ 5; and Affidavit of Jason Cutliffe at ¶ 5. If DEF cannot assure contracting parties that it can maintain the confidentiality of contractual terms, those parties and other similarly situated parties may forego entering contracts with DEF, which would impair the ability of the Company to negotiate contracts on favorable terms. *See* § 366.093(3)(d) and (e), F.S.; Affidavit of Tom Morris at ¶ 6; and Affidavit of Jason Cutliffe at ¶ 6. Accordingly, such information constitutes "proprietary confidential business information," which is exempt from disclosure under the Public Records Act pursuant to Section 366.093(1), F.S.

- 4. The information identified as **Exhibit A** is intended to be and is treated as confidential by the Company. *See* Affidavit of Tom Morris at ¶¶ 7 and 8; and Affidavit of Jason Cutliffe at ¶¶ 7 and 8. The information has not been disclosed to the public and the Company has treated and continues to treat the information at issue in this Request as confidential. *Id*.
- 5. DEF requests that the information identified in **Exhibit A** be classified as "proprietary confidential business information" within the meaning of Section 366.093(3), F.S., that the information remain confidential for a period of at least eighteen (18) months as provided in Section 366.093(4) F.S., and that the information be returned as soon as it is no longer necessary for the Commission to conduct its business.

WHEREFORE, for the foregoing reasons, DEF respectfully requests that this Sixth Request for Confidential Classification be granted.

DATED this 21st day of August, 2020.

#### /s/ Daniel Hernandez

**DANIEL HERNANDEZ** 

Florida Bar No. 176834

MELANIE B. SENOSIAIN

Florida Bar No. 118904

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### **CERTIFICATE OF SERVICE (DOCKET. NO. 20190110-EI)**

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished via electronic mail this 21<sup>st</sup> day of August, 2020, to all parties of record as indicated below.

<u>/s/ Daniel Hernandez</u> Attorney

Ashley Weisenfeld / Rachael Dziechciarz Office of General Counsel Florida Public Service Commission 2540 Shumard Oak Blvd. Tallahassee, FL 32399-0850 aweisenf@psc.state.fl.us rdziechc@psc.state.fl.us J.R. Kelly / Charles J. Rehwinkel Office of Public Counsel c/o The Florida Legislature 111 West Madison St., Room 812 Tallahassee, FL 32399-1400 kelly.jr@leg.state.fl.us rehwinkel.charles@leg.state.fl.us

### Exhibit A

## "CONFIDENTIAL"

(submitted under separate cover)

### Exhibit B

### **REDACTED**

(two copies)

### **REDACTED**

155. Refer to the testimony of Jason Cutliffe at Page 3, Lines 17-23 and Page 4 Lines 1-3 and the response to OPC POD 1-5. For each vendor, please identify the document, and where in the document, the contractual agreement requires payment of 16 hours per day for mobilization/demobilization.

### **RESPONSE:**

Vendor rate sheets in 2018 did not specifically require payment of 16 hours per day for mobilization/demobilization. Please refer to Jason Cutliffe's testimony at page 3, lines 17-18 stating that "hours charged for mobilization and demobilization were in line with travel conditions and consistent with 2018 payment practice." Please see the Supplier Rate Sheets attached to OPC's Fourth Request for Production No. 34 bearing Bates numbers 20190110-DEF-OPCPOD4-34-000001 through 20190110-DEF-OPCPOD4-34-000004.

- Company AA: Company AA Rate Sheet on cell I15.
- Company BB: Company BB Rate Sheet on cell J16.
- Company A: Company A Rate Sheet on cell J14.
- The hours of work are not specified in the rate sheet.

### **REDACTED**

163. Refer to the testimony of Jason Cutliffe at Page 8, Lines 13-18. Please explain how the Company went about calculating the \$3.5 million and provide the calculation.

### **RESPONSE:**

For the vendors who invoiced DEF for mobilization and were acquired by another utility upon release, avoided demobilization cost was estimated by summing the invoiced mobilization charges. The invoiced mobilization charges are:

Company:	Invoiced Mobilization Charge
Company RR	\$24,675
Company N	\$424,458
Company O	\$108,331
Company P	\$1,786,734
Company GG	\$164,396
Company HH	\$527,629
Company W	\$20,000
Company Y	\$102,000
Company Z	\$7,000
	\$314,997
Total:	\$3,480,220

Document bearing Bates number: 20190110-DEF-OPCPOD4-33-000001 through 20190110-DEF-OPCPOD4-33-000016

Documents bearing Bates numbers: 20190110-DEF-OPCPOD4-34-000001 to 20190110-DEF-OPCPOD4-34-000004

Documents bearing Bates numbers: 20190110-DEF-OPCPOD4-41-000001 to 20190110-DEF-OPCPOD4-41-000109

### **REDACTED**

155. Refer to the testimony of Jason Cutliffe at Page 3, Lines 17-23 and Page 4 Lines 1-3 and the response to OPC POD 1-5. For each vendor, please identify the document, and where in the document, the contractual agreement requires payment of 16 hours per day for mobilization/demobilization.

### **RESPONSE:**

Vendor rate sheets in 2018 did not specifically require payment of 16 hours per day for mobilization/demobilization. Please refer to Jason Cutliffe's testimony at page 3, lines 17-18 stating that "hours charged for mobilization and demobilization were in line with travel conditions and consistent with 2018 payment practice." Please see the Supplier Rate Sheets attached to OPC's Fourth Request for Production No. 34 bearing Bates numbers 20190110-DEF-OPCPOD4-34-000001 through 20190110-DEF-OPCPOD4-34-000004.

- Company AA: Company AA Rate Sheet on cell I15.
- Company BB: Company BB Rate Sheet on cell J16.
- Company A: Company A Rate Sheet on cell J14.
- The hours of work are not specified in the rate sheet.

### **REDACTED**

163. Refer to the testimony of Jason Cutliffe at Page 8, Lines 13-18. Please explain how the Company went about calculating the \$3.5 million and provide the calculation.

### **RESPONSE:**

For the vendors who invoiced DEF for mobilization and were acquired by another utility upon release, avoided demobilization cost was estimated by summing the invoiced mobilization charges. The invoiced mobilization charges are:

Company:	Invoiced Mobilization Charge
Company RR	\$24,675
Company N	\$424,458
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Company P	\$1,786,734
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Company HH	\$527,629
Company W	\$20,000
Company Y	\$102,000
Company Z	\$7,000
	\$314,997
Total:	\$3,480,220

Document bearing Bates number: 20190110-DEF-OPCPOD4-33-000001 through 20190110-DEF-OPCPOD4-33-000016

Documents bearing Bates numbers: 20190110-DEF-OPCPOD4-34-000001 to 20190110-DEF-OPCPOD4-34-000004

Documents bearing Bates numbers: 20190110-DEF-OPCPOD4-41-000001 to 20190110-DEF-OPCPOD4-41-000109

### **Exhibit C**

### DUKE ENERGY FLORIDA, LLC Confidentiality Justification Matrix

DOCUMENT/RESPONSE	PAGE/LINE	JUSTIFICATION
DEF's Response to Citizen's Sixth Set of Interrogatories (Nos. 154- 170); specifically interrogatory number 155.	Response to ROG No. 155 –  All information before "The hours of work are not specified" in the fourth bullet point of DEF's response is confidential.	§366.093(3)(d), F.S. The document in question contains confidential information, the disclosure of which would impair DEF's efforts to contract for goods or services on favorable terms.  §366.093(3)(e), F.S. The document in question contains confidential information, the disclosure of which would impair DEF's competitive interests.
DEF's Response to Citizen's Sixth Set of Interrogatories (Nos. 154- 170); specifically interrogatory number 163.	Response to ROG No. 163 –  All information under the column titled "Company" in the second to last row of the table in DEF's response is confidential.	§366.093(3)(d), F.S. The document in question contains confidential information, the disclosure of which would impair DEF's efforts to contract for goods or services on favorable terms.  §366.093(3)(e), F.S. The document in question contains confidential information, the disclosure of which would impair DEF's competitive interests.
DEF's Response to Citizen's Fourth Request for Production of Documents (Nos. 28-41); specifically request number 33.	Response to POD No. 33 –  Document bearing Bates number 20190110-DEF-OPCPOD4-33-000001 through 20190110-DEF-OPCPOD4-33-000016: The entire document is confidential.	§366.093(3)(d), F.S. The document in question contains confidential information, the disclosure of which would impair DEF's efforts to contract for goods or services on favorable terms.  §366.093(3)(e), F.S. The document in question

DOCUMENT/RESPONSE	PAGE/LINE	JUSTIFICATION
		contains confidential information, the disclosure of which would impair DEF's competitive interests.
DEF's Response to Citizen's Fourth Request for Production of Documents (Nos. 28-41); specifically request number 34.	Response to POD No. 34 –  Documents bearing Bates numbers 20190110-DEF- OPCPOD4-34-000001 through 20190110-DEF- OPCPOD4-34-000004: The entire set of documents is confidential.	\$366.093(3)(d), F.S. The document in question contains confidential information, the disclosure of which would impair DEF's efforts to contract for goods or services on favorable terms.  \$366.093(3)(e), F.S. The document in question contains confidential information, the disclosure of which would impair DEF's competitive interests.
DEF's Response to Citizen's Fourth Request for Production of Documents (Nos. 28-41); specifically request number 41.	Response to POD No. 41 –  Documents bearing Bates numbers 20190110-DEF- OPCPOD4-41-000001 through 20190110-DEF- OPCPOD4-41-000109: The entire set of documents is confidential.	§366.093(3)(d), F.S. The document in question contains confidential information, the disclosure of which would impair DEF's efforts to contract for goods or services on favorable terms.  §366.093(3)(e), F.S. The document in question contains confidential information, the disclosure of which would impair DEF's competitive interests.

## Composite Exhibit D

## AFFIDAVITS OF JASON CUTLIFFE AND TOM MORRIS

#### BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition by Duke Energy Florida, LLC for limited proceeding for recovery of incremental storm restoration costs related to Hurricane Michael and Tropical Storm Alberto.

\_\_\_\_\_

Filed: August 21, 2020

## AFFIDAVIT OF JASON CUTLIFFE IN SUPPORT OF DUKE ENERGY FLORIDA, LLC'S SIXTH REQUEST FOR CONFIDENTIAL CLASSIFICATION

STATE OF FLORIDA	
COUNTY OF	

BEFORE ME, the undersigned authority duly authorized to administer oaths, personally appeared Jason Cutliffe, who being first duly sworn, on oath, deposes and says that:

- 1. My name is Jason Cutliffe. I am over the age of eighteen (18) and I have been authorized by Duke Energy Florida, LLC (hereinafter "DEF" or "Company") to give this affidavit in the above-styled proceeding on DEF's behalf and in support of DEF's Sixth Request for Confidential Classification ("DEF's Request"). The facts attested to in my affidavit are based upon my personal knowledge.
  - 2. I am the General Manager of Emergency Preparedness for the Company.
- 3. As the General Manager, I am responsible for the overall management and emergency training of managers and employees. I am also responsible for the overall preparedness for major restoration events. Additionally, I serve as the Region Incident Commander when such a role is activated under the Incident Command Structure.
- 4. DEF is seeking the confidential classification for certain information contained within DEF's responses to interrogatory numbers 155 and 163 of Sixth Set of Interrogatories to

Duke Energy Florida, LLC (Nos. 154-170) and the documents produced with DEF's response to request numbers 33, 34, and 41 of Citizens' Fourth Request for Production of Documents (Nos. 28-41). The confidential information at issue, in DEF's response to interrogatory numbers 155 and 163 and in DEF's production of documents responsive to request numbers 33 and 34, is contained in confidential Exhibit A to DEF's Request and is outlined in DEF's Justification Matrix attached to DEF's Request as Exhibit C. DEF is requesting confidential classification of this information because it contains competitively sensitive confidential information concerning contractual business information, the disclosure of which would impair DEF's efforts to contract for goods or services on favorable terms.

- 5. The confidential information at issue relates to proprietary confidential business information; specifically, the Company's contractual rate information with third-party vendors. The disclosure of such information would impair the Company's competitive business advantages. Therefore, the confidential information at issue qualifies for confidential classification.
- 6. If DEF cannot assure contracting parties that it can maintain the confidentiality of contractual terms, those parties and other similarly situated parties may forego entering contracts with DEF, which would impair the Company to negotiate such contracts on favorable terms.
- 7. The information identified as Exhibit A is intended to be and is treated as confidential by the Company. With respect to the information at issue in DEF's Request, such information has not been disclosed to the public, and the Company has treated and continues to treat such information as confidential.
- 8. Upon receipt of its own confidential information, strict procedures are established and followed to maintain the confidentiality of the terms of the documents and information

provided, including restricting access to those persons who need the information to assist the Company, and restricting the number of, and access to the information and contracts. At no time since receiving the information in question has the Company publicly disclosed that information. The Company has treated and continues to treat the information at issue as confidential.

9. This concludes my affidavit.

J	
FURTHER AFFIANT SAYETH NOT.	
Dated the day of	20.
	Jason Cutliffe (address)
physical presence or $\square$ online notarization Cutliffe. He is personally known to me, or $\square$	n to and subscribed before me, by means of the produced his driver's license, or his who states that the foregoing answers are true and ef.
(AFFIX NOTARY SEAL)	Signature Printed Name
(AITIA NOTAKT SEAL)	NOTARY PUBLIC, STATE OF

**Commission Expiration Date** 

#### BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition by Duke Energy Florida, LLC for limited proceeding for recovery of incremental storm restoration costs related to Hurricane Michael and Tropical Storm Alberto.

Filed: August 21, 2020

## AFFIDAVIT OF TOM MORRIS IN SUPPORT OF DUKE ENERGY FLORIDA, LLC'S SIXTH REQUEST FOR CONFIDENTIAL CLASSIFICATION

STATE OF FLORI	DA
COUNTY OF	

BEFORE ME, the undersigned authority duly authorized to administer oaths, personally appeared Tom Morris, who being first duly sworn, on oath, deposes and says that:

- 1. My name is Tom Morris. I am over the age of eighteen (18) and I have been authorized by Duke Energy Florida, LLC (hereinafter "DEF" or "Company") to give this affidavit in the above-styled proceeding on DEF's behalf and in support of DEF's Sixth Request for Confidential Classification ("DEF's Request"). The facts attested to in my affidavit are based upon my personal knowledge.
  - 2. I am the Director of Customer Delivery Florida Finance for the Company.
- 3. As the Director, I am responsible for the overall management and coordination of activities for Distribution Operations. I also oversee several employees and I ensure that such employees provide budgeting and forecasting, and expense and capital accounting for Distribution Operations among other responsibilities.
- 4. DEF is seeking the confidential classification for certain information contained within DEF's responses to interrogatory numbers 155 and 163 of Sixth Set of Interrogatories to

Duke Energy Florida, LLC (Nos. 154-170) and the documents produced with DEF's response to request numbers 33, 34, and 41 of Citizens' Fourth Request for Production of Documents (Nos. 28-41). The confidential information at issue, in DEF's production of documents responsive to request number 41, is contained in confidential Exhibit A to DEF's Request and is outlined in DEF's Justification Matrix attached to DEF's Request as Exhibit C. DEF is requesting confidential classification of this information because it contains competitively sensitive confidential information concerning contractual business information, the disclosure of which would impair DEF's efforts to contract for goods or services on favorable terms.

- 5. The confidential information at issue relates to proprietary confidential business information; specifically, the Company's contractual rate information with third-party vendors. The disclosure of such information would impair the Company's competitive business advantages. Therefore, the confidential information at issue qualifies for confidential classification.
- 6. If DEF cannot assure contracting parties that it can maintain the confidentiality of contractual terms, those parties and other similarly situated parties may forego entering contracts with DEF, which would impair the Company to negotiate such contracts on favorable terms.
- 7. The information identified as Exhibit A is intended to be and is treated as confidential by the Company. With respect to the information at issue in DEF's Request, such information has not been disclosed to the public, and the Company has treated and continues to treat such information as confidential.
- 8. Upon receipt of its own confidential information, strict procedures are established and followed to maintain the confidentiality of the terms of the documents and information provided, including restricting access to those persons who need the information to assist the

Company, and restricting the number of, and access to the information and contracts. At no time since receiving the information in question has the Company publicly disclosed that information. The Company has treated and continues to treat the information at issue as confidential.

The Company has treated and continues to treat the	e information at issue as confidential.	
9. This concludes my affidavit.		
FURTHER AFFIANT SAYETH NOT.		
Dated the day of		
	Tom Morris (address)	
The foregoing instrument was sworn to and subscribed before me, by means of □ physical presence or □ online notarization, this day of, 2020, by Tom Morris. He is personally known to me, or has produced his driver's license, or his as identification, and who states that the foregoing answers are true and correct to the best of his information and belief.		
	Signature	
(AFFIX NOTARY SEAL)	Printed Name	
	NOTARY PUBLIC, STATE OF	

**Commission Expiration Date**