

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for limited proceeding for recovery of incremental storm restoration costs related to Hurricanes Irma and Nate, by Duke Energy Florida, LLC.

DOCKET NO. 20170272-EI
ORDER NO. PSC-2018-0418-CFO-EI
ISSUED: August 23, 2018

ORDER GRANTING DUKE ENERGY FLORIDA, LLC'S
REQUEST FOR CONFIDENTIAL CLASSIFICATION
(DOCUMENT NOS. 04259-2018 AND 04570-2018)

On July 6, 2018, 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) filed a Request for Confidential Classification (Request) of its First Supplemental Response to Office of Public Counsel's (OPC) First Request for Production of Documents, Nos. 1-10, specifically No. 2 (Document No. 04570-2018), and its Second Supplemental Response to OPC's First Set of Interrogatories, Nos. 1-50, specifically Nos. 39 and 43 (Document No. 04259-2018). This request was filed in Docket No. 20170272-EI.

Request for Confidential Classification

DEF contends that its First Supplemental Response to OPC's First Request for Production of Documents, No. 2, and its Second Supplemental Response to OPC's First Set of Interrogatories, Nos. 39 and 43, as more specifically described in Exhibit C attached to its Request, constitute proprietary and confidential business information entitled to protection under Section 366.093, F.S., and Rule 25-22.006, F.A.C. Exhibit C, attached to DEF's Request, contains a detailed matrix providing justification and support for confidential classification of the information on a page-by-page basis. DEF asserts that this information is intended to be and is treated by DEF as private and has not been publicly disclosed.

DEF contends that the information in its response to OPC's First Request for Production of Documents, No. 2, consists of internal accounting policies, procedures, and guidelines, including employee personnel information, which DEF treats as proprietary confidential business information. DEF further contends that the information in its response to OPC's First Set of Interrogatories, Nos. 39 and 43, relates to contractor costs incurred by DEF to assist with storm restoration, which DEF also treats as proprietary confidential business information.

Given these facts, DEF argues that its response to OPC's First Request for Production of Documents, No. 2, is protected by Sections 366.093(3)(d) and 366.093(3)(f), F.S., and its response to OPC's First Set of Interrogatories, Nos. 39 and 43, is protected by Section 366.093(3)(d), F.S. DEF requests confidential classification for this information for a period of 18 months.

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(3), 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.

(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 described above and in DEF's Request appears to contain 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 appears to contain employee personnel information unrelated to compensation, duties, qualifications, or responsibilities. Thus, the information identified in Document Nos. 04259-2018 and 04570-2018 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 Julie I. Brown, as Prehearing Officer, that Duke Energy Florida, LLC's Request for Confidential Classification of Document Nos. 04259-2018 and 04570-2018 is granted. It is further

ORDERED that the information in Document Nos. 04259-2018 and 04570-2018, 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. At the conclusion of the 18-month period, the confidential information will no longer be exempt from Section 119.07(1), F.S., unless Duke Energy Florida, LLC or another affected person shows, and the Commission

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finds, that the records continue to contain proprietary confidential business information. 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 Julie I. Brown, as Prehearing Officer, this 23rd day of August, 2018.



JULIE I. BROWN
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.

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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.