

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Fuel and purchased power cost recovery  
clause with generating performance incentive  
factor.

DOCKET NO. 20210001-EI  
ORDER NO. PSC-2021-0046-CFO-EI  
ISSUED: January 25, 2021

ORDER GRANTING REQUEST FOR CONFIDENTIAL  
CLASSIFICATION (DOCUMENT NO. 11601-2020,  
X-REF. 11656-2020 AND 12399-2020)

On November 17, 2020, 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 the Florida Public Service Commission's Order No. PSC-2020-0368A-FOF-EI, issued October 29, 2020 (Document No. 11601-2020, x-ref. 11656-2020 and 12399-2020).

Request for Confidential Classification

DEF contends that the information contained in Order No. PSC-2020-0368A-FOF-EI, more specifically described in Exhibit C to its Request, constitutes proprietary confidential business information entitled to protection under Section 366.093, F.S., and Rule 25-22.006, F.A.C. DEF asserts that this information is intended to be and is treated by DEF as private and has not been publicly disclosed.

The information contained in Order No. PSC-2020-0368A-FOF-EI consists of operational, design, and cost information associated with the Mitsubishi steam turbine connected to DEF's Bartow Unit 4 power plant which is proprietary to Mitsubishi. Order No. PSC-2020-0368A-FOF-EI also includes the Administrative Law Judge's Recommended Order and Duke Energy Florida, LLC's, the Intervenors', and Commission staff's Proposed Recommended Orders which have previously been granted confidential status.<sup>1</sup> Disclosure of Order No. PSC-2020-0368A-FOF-EI would reveal this proprietary third-party owned information resulting in competitive harm to Mitsubishi and potentially impairing DEF's ability to contract for goods and services on favorable terms in the future as vendors would refuse to do business with DEF if DEF could not protect their information. DEF argues that this information is protected by Paragraphs 366.093(3)(d) and (e), F.S.

Ruling

Subsection 366.093(1), F.S., provides that records the Florida Public Service Commission (Commission) has found to contain proprietary business information shall be

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<sup>1</sup> Order No. PSC-2020-0377-CFO-EI, issued October 16, 2020, in Docket No. 20200001-EI, *In re: Fuel and purchased power cost recovery clause with generating performance incentive factor*; Order No. PSC-2020-0376-CFO-EI, issued October 16, 2020, in Docket No. 20200001-EI, *In re: Fuel and purchased power cost recovery clause with generating performance incentive factor*.

kept confidential and shall be exempt from Chapter 119, F.S. Subsection 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. Subsection 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.

(e) Information relating to competitive interests, the disclosure of which would impair the competitive business of the provider of the information.

Upon review, it appears the information and data provided in this request satisfies the criteria set forth in Subsection 366.093(3), F.S., for classification as proprietary confidential business information. The operational, design, and cost information for the DEF's Bartow Unit 4 power plant discussed in Order No. PSC-2020-0368A-FOF-EI appear to be "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" and "information relating to competitive interests, the disclosure of which would impair the competitive business of the provider of the information." Thus the information identified in Document No. 11601-2020, x-ref. 11656-2020 and 12399-2020, shall be granted confidential classification.

Pursuant to Subsection 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 Subsection 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 Andrew Giles Fay, as Prehearing Officer, that Duke Energy Florida, LLC's Request for Confidential Classification of Document No. 11601-2020, x-ref. 11656-2020 and 12399-2020, is granted, as set forth herein. It is further

ORDERED that the information in Document No. 11601-2020, x-ref. 11656-2020 and 12399-2020, 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 Andrew Giles Fay, as Prehearing Officer, this 25th day of January, 2021.



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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.

SBr

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.