

Matthew R. Bernier Senior Counsel Duke Energy Florida, LLC

September 28, 2015

# VIA ELECTRONIC FILING

Ms. Carlotta Stauffer, Commission Clerk Florida Public Service Commission 2540 Shumard Oak Boulevard Tallahassee, Florida 32399-0850

Re: Nuclear Cost Recovery Clause; Docket No. 150009-EI

Dear Ms. Stauffer:

Please find enclosed for electronic filing on behalf of Duke Energy Florida, LLC ("DEF") DEF's Request for Confidential Classification for certain confidential information contained in Staff's Generated Workpapers for Audit 15-01-001, specifically page 141, subparagraph i, filed on September 28, 2015. This filing includes:

- DEF's Request for Confidential Classification
- Slipsheet for confidential Exhibit A
- Redacted Exhibit B (two copies)
- Exhibit C (justification matrix), and
- Exhibit D (affidavit of Mark R. Teague)

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

Thank you for your assistance in this matter. Please feel free to call me at (850) 521-1428 should you have any questions concerning this filing.

Respectfully,

MRB/mw Enclosures

cc: Certificate of Service

<u>s/Matthew R. Bernier</u> Matthew R. Bernier Senior Counsel <u>Matthew.Bernier@duke-energy.com</u>

## Duke Energy Florida, LLC Docket No.: 150009 CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished via electronic mail this 28<sup>th</sup> day of September 2015 to all parties of record as indicated below.

s/Matthew R. Bernier\_\_\_\_

Martha Barrera Kyesha Mapp Florida Public Service Commission Staff 2540 Shumard Oak Boulevard Tallahassee, FL 32399-0850 <u>mbarrera@psc.state.fl.us</u> <u>kmapp@psc.state.fl.us</u>

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### **BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

In re: Nuclear Cost Recovery Clause

Docket No. 150009-EI Submitted for Filing: September 28, 2015

## DUKE ENERGY FLORIDA'S SEVENTH REQUEST FOR CONFIDENTIAL CLASSIFICATION REGARDING STAFF-GENERATED AUDIT WORKPAPERS

Duke Energy Florida, LLC ("DEF" or the "Company"), pursuant to Sections 366.093, Florida Statutes (F.S.), and Rule 25-22.006(3), Florida Administrative Code (F.A.C.), requests confidential classification of portions of the Florida Public Service Commission Staff-Generated Auditors' Workpapers (the "Workpapers"). These documents contain confidential contractual cost information, asset disposition information, and vendor information, the disclosure of which would impair DEF's competitive business interests. These documents meet the definition of proprietary confidential business information pursuant to section 366.093(3), Florida Statutes. The unredacted documents are being filed under seal with the Commission on a confidential basis to keep the competitive business information in those documents confidential.

### **BASIS FOR CONFIDENTIAL CLASSIFICATION**

Section 366.093(1), F.S., 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), F.S.. 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 customers or the Company's business operation, and (iv) the information has not been voluntarily disclosed to the public. § 366.093(3), F.S 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), F.S Additionally, section 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, and section 366.093(3)(b) provides that "[i]nternal auditing controls and reports of internal auditors" is proprietary confidential business information.

### **DOCUMENTS AT ISSUE**

Portions of the aforementioned documents should be afforded confidential classification for the reasons set forth in the Affidavit of Mark R. Teague filed in support of DEF's Request for Confidential Classification (the "Request"), and for the following reasons. Specifically, a portion of page 141 of Staff's Workpapers contains confidential information related to ongoing negotiations for the sale of turbine equipment, the release of which would impair DEF's competitive business interests and ongoing negotiations with vendors. *See* Affidavit of Mark Teague, ¶¶ 3-5.

In order to successfully obtain competitive contracts DEF must be able to assure the other potential parties that sensitive business information and the status of on-going negotiations will remain confidential. DEF has kept confidential and has not publicly disclosed the information at issue here. Absent such measures, DEF would run the risk that sensitive business information such as the information at issue would be made to available to the public and, as a result, other potential suppliers, vendors, and/or purchasers of such services could change their position in negotiations with DEF. Without DEF's measures to maintain the confidentiality of sensitive

business information, the Company's efforts to obtain competitive contracts, and/or disposition CR3 EPU equipment, would be undermined. Affidavit of Mark Teague, ¶¶ 3-5. Accordingly, this information should be afforded confidential treatment by the Commission. *See* § 366.093(3)(d)(e), F.S

### CONCLUSION

Upon receipt of this confidential information, strict procedures are established and followed to maintain the confidentiality of the information provided, including restricting access to only those persons who need the information to assist the Company. *See* Affidavit of Mark Teague,  $\P$  6. At no time since receiving the information in question has the Company publicly disclosed that information. *See id.* The Company has treated and continues to treat the information at issue as confidential. *Id.* 

The competitive, confidential contractual cost and vendor 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, Florida Administrative Code, and that information should be afforded confidential classification. In support of this motion, DEF has enclosed the following:

(1) Sealed Composite Exhibit A is a package containing an unredacted copy of all the documents for which DEF seeks confidential treatment. Composite Exhibit A is being submitted separately in a sealed envelope labeled "CONFIDENTIAL." In the unredacted version, the information asserted to be confidential is highlighted in yellow. This information should be accorded confidential treatment pending a decision on DEF's Request by the Florida Public Service Commission;

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(2) Composite Exhibit B is a package containing two copies of redacted versions of the documents 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.

(3) Exhibit C is a table which identifies by page and line the information for

which DEF seeks confidential classification and the specific statutory basis for seeking confidential treatment.

(4) Exhibit D is an affidavit attesting to the confidential nature of information identified in this request.

WHEREFORE, DEF respectfully requests that the redacted portions of Staff-Generated Auditors' Workpapers be granted confidential classification and treated accordingly.

Respectfully Submitted this 28<sup>th</sup> day of September, 2015.

<u>s/Matthew R. Bernier</u> **DIANNE M. TRIPLETT**Associate General Counsel
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Email: Matthew.Bernier@duke-energy.com

Attorneys for Duke Energy Florida, LLC

### **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 this 28<sup>th</sup> day of September, 2015.

<u>s/Matthew R. Bernier</u> Attorney

Martha Barrera Kyesha Mapp Florida Public Service Commission Staff 2540 Shumard Oak Boulevard Tallahassee, FL 32399-0850 <u>mbarrera@psc.state.fl.us</u> <u>kmapp@psc.state.fl.us</u>

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# **Exhibit** A

# **"CONFIDENTIAL"** (filed under separate cover)

# Exhibit B REDACTED

# Bureau of Performance Analysis Interview Summary

REDACTED

interview Summary		
Company: Duke Energy Florida Area: CR3/EPU Project Management Internal Controls Auditor(s): T. Coston;L. Fisher	Interview Number: EPU IVS-1 File Name: EPU IVS-1.doc	
Name: Jeff LaPratt (EPU project Manager), Magdy Bishara (Manager of Major Projects), Jay Outcalt (Contract Manager), Wendy Woodruff (Financial Analyst), Paul Moore (Regulatory)	Date of Interview: 4/9/15 Location: Crystal River Nuclear Plant- Office Complex Telephone Number:	
(1) Purpose of Interview: Overview and discussion of the IRP and	l status of EPU/CR3 asset disposal through auction and other	

processes. (2) Interview Summary:

a. A presentation was provided by Jeff LaPratt with questions from audit staff and answers provided by attendees and Mr. LaPratt. The EPU staff currently consists of Mr. La Pratt and an asset specialist (Paul Chadourne); The SVP position was replaced during 2014;

b. During the discussion staff learned many of the EPU/CPR assets reviewed last year were transferred to other Duke utilities, disposed of through efforts described last year (ex: Cooling Tower asset sale completed and partially credited to EPU), and sold through the auction held in September 2014 (ex: traunches of small tools and other assets), as well as sales to other utilities (through PIM, RAPID and Power Advocate), and disposed of through scrap; assets not sold in the auction continue to be negotiated with the intent of final disposition or scrap;

c. Project governance, procedures and practices in place last year (AI-9010, Project Execution Plan, Investment Recovery Guidance Document (IRGD) and reports (Weekly Meetings, KSIs, etc).continued to be used through 2014 and 2015 disposal activities; d. In mid 2014, IRP researched the San Onofre (SONGS) auction event for disposal of the nuclear assets through auction; Duke's Corporate Recovery department had prior experience with auctions and provided assistance in securing an auction dealer with global connections and experience; Initially Duke notified 6-8 potential auction companies through a RFQ to determine whhether to use several smaller companies with specialized equipment experience or use a larger company for all equipment with global experience and markets; Duke short-listed two auction companies and after technical and commercial review decided on one company (Heritage); This company provided a global marketing presence and completed a major add campaign to cover local, regional, and global markets for the auction; Heritage conducted a three day auction event, including review of items with prospective market buyers, and two days of auction activities; In addition to marketing and auction services, Heritage provided assistance with packaging, buyer pick up of items and invoicing;

e. As a means of having a reserve, auction items were sold subject to seller confirmation; only a few sales were not accepted due to seller confirmation; if the bid was less than the cost of removal the company declined the bid; multiple scrap dealers were bidding on equipment and knew what the scrap value was, but would not bid beyond that value; so the scrap dealers bids became the barometer on what the scrap value would be;

f. Large components for EPU were auctioned at the same time to ensure there was no confusion about keeping EPU separate, those assets were lotted together under EPU; of the total 34 thousand lots approximately 3,000 (10%) were EPU; Lots were organized by the auction company to maximize return, and small items led to the large items as the focus; Some of the larger EPU items did not sell (turbines) and are now under negotiation with the OEM;

g. Auction company made money through buyers premium; based on agreement a tiered payment was made to company; amount paid based on the total dollar amount sold, with an incentive based on tier level reached;

h. IRP found that their warehouse labor was too slow and expensive to respond to the auction environment, so the auction company was used to package, invoice, and handle pick-up by bidders; the condensate pump motors were sold and loaded by Duke with labor costs charged to EPU; \$90.5K were net proceeds to EPU;

i. Preliminary decision re: negotiations for turbine equipment to OEM should be made in April;

j. An audit of IRP in general, and the auction process more specifically, is being conducted by Duke Corporate Audit; IRP should get preliminary status update today;

k. IRP is attempting to complete the project by the end of third quarter 2015.

(3) Conclusions:

I:\PERFORMANCE ANALYSIS SECTION\00 PERFORMANCE ANALYSIS AUDITS\Nuclear Controls Review 2015\Duke\3.0 Workpapers\3.5 Interview Summaries\EPU IVS-1.doc

# Bureau of Performance Analysis Interview Summary

REDACTED

interview Summary		
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b. During the discussion staff learned many of the EPU/CPR assets reviewed last year were transferred to other Duke utilities, disposed of through efforts described last year (ex: Cooling Tower asset sale completed and partially credited to EPU), and sold through the auction held in September 2014 (ex: traunches of small tools and other assets), as well as sales to other utilities (through PIM, RAPID and Power Advocate), and disposed of through scrap; assets not sold in the auction continue to be negotiated with the intent of final disposition or scrap;

c. Project governance, procedures and practices in place last year (AI-9010, Project Execution Plan, Investment Recovery Guidance Document (IRGD) and reports (Weekly Meetings, KSIs, etc).continued to be used through 2014 and 2015 disposal activities; d. In mid 2014, IRP researched the San Onofre (SONGS) auction event for disposal of the nuclear assets through auction; Duke's Corporate Recovery department had prior experience with auctions and provided assistance in securing an auction dealer with global connections and experience; Initially Duke notified 6-8 potential auction companies through a RFQ to determine whhether to use several smaller companies with specialized equipment experience or use a larger company for all equipment with global experience and markets; Duke short-listed two auction companies and after technical and commercial review decided on one company (Heritage); This company provided a global marketing presence and completed a major add campaign to cover local, regional, and global markets for the auction; Heritage conducted a three day auction event, including review of items with prospective market buyers, and two days of auction activities; In addition to marketing and auction services, Heritage provided assistance with packaging, buyer pick up of items and invoicing;

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f. Large components for EPU were auctioned at the same time to ensure there was no confusion about keeping EPU separate, those assets were lotted together under EPU; of the total 34 thousand lots approximately 3,000 (10%) were EPU; Lots were organized by the auction company to maximize return, and small items led to the large items as the focus; Some of the larger EPU items did not sell (turbines) and are now under negotiation with the OEM;

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i. Preliminary decision re: negotiations for turbine equipment to OEM should be made in April;

j. An audit of IRP in general, and the auction process more specifically, is being conducted by Duke Corporate Audit; IRP should get preliminary status update today;

k. IRP is attempting to complete the project by the end of third quarter 2015.

(3) Conclusions:

I:\PERFORMANCE ANALYSIS SECTION\00 PERFORMANCE ANALYSIS AUDITS\Nuclear Controls Review 2015\Duke\3.0 Workpapers\3.5 Interview Summaries\EPU IVS-1.doc

# Exhibit C

DOCUMENT/RESPONSES	PAGE/LINE	JUSTIFICATION
Staff Generated Workpapers	Page 141: subparagraph i;	§366.093(3)(d), F.S.
15-01-001	all of the remaining	The document in question
	paragraph after "April".	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 relating to competitive business interests, the disclosure of which would impair the competitive business of the provider/owner
		of the information.

# DUKE ENERGY FLORIDA Confidentiality Justification Matrix

# Exhibit D AFFIDAVIT OF MARK R. TEAGUE

### **BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

In re: Nuclear Cost Recovery Clause Docket No. 150009-EI Submitted for Filing: September 28, 2015

## AFFIDAVIT OF MARK R. TEAGUE IN SUPPORT OF DUKE ENERGY FLORIDA, INC.'S SEVENTH REQUEST FOR CONFIDENTIAL CLASSIFICATION

# STATE OF NORTH CAROLINA COUNTY OF MECKLENBURG

BEFORE ME, the undersigned authority duly authorized to administer oaths, personally appeared Marcus "("Mark") R. Teague, who being first duly sworn, on oath deposes and says that:

1. My name is Mark R. Teague. I am employed by Duke Energy Business Services, LLC and serve as its Managing Director of Major Projects Sourcing in the Supply Chain Department. I am over the age of 18 years old and I have been authorized to give this affidavit in the above-styled proceeding on Duke Energy Florida, LLC's ("DEF") behalf and in support of DEF's Seventh Request for Confidential Classification (the "Request") portions of the Florida Public Service commission Staff-Generated Workpapers. The facts attested to in my affidavit are based upon my personal knowledge.

2. As Managing Director of Major Projects, my role includes providing management oversight in the disposition of the Crystal River Unit 3 ("CR3") Extended Power Uprate ("EPU") assets by ensuring that Supply Chain employees at qt3 follow DEF's processes and procedures. I also have responsibility for the Supply Chain functions for Duke Energy International and with most Duke Energy Corporation ("Duke Energy") Major Projects, both regulated and nonregulated. 3. DEF is seeking confidential classification for portions of the Florida Public Service Commission Staff-Generated auditors' workpapers (the "Workpapers"). These documents contain confidential contractual, financial, asset disposition information, and vendor information. This information is competitively sensitive business information, the disclosure of which would impair DEF's competitive business interests. A detailed description of the confidential information at issue is contained in confidential Exhibit A to DEF's Request and is outlined in DEF's Justification Matrix that is attached to the Request as Exhibit C.

4. DEF is requesting confidential classification of this information because certain information contained on the Workpapers contain proprietary and confidential financial information concerning the potential disposition of EPU assets. The confidential information at issue relates to ongoing negotiations for the sale of turbine equipment, the release of which would impair DEF's competitive business interests and ongoing negotiations with vendors. Moreover, if this information was disclosed to DEF's competitors and/or other potential purchasers, DEF's efforts to obtain competitive sales contracts that provide economic value to both the Company and its customers could be compromised by the Company's competitors and/or parties with whom the Company may wish to contract with changing their offers or purchasing behavior within relevant markets

5. DEF must be able to assure existing and future third parties that sensitive business information will be kept confidential. If other third parties were made aware of confidential terms of on-going negotiations that DEF has with other parties, they may offer less competitive contractual terms in future contractual negotiations.

6. Upon receipt of all this confidential information, and with 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. At no time since negotiating and receiving the contracts has the Company publicly disclosed the information or the terms of the contracts at issue. The Company has treated and continues to treat the information at issue as confidential.

7. This concludes my affidavit.

Further affiant sayeth not.

Dated this  $25^{\frac{m}{2}}$  day of September, 2015.

Saaque (Signature)

Mark R. Teague

THE FOREGOING INSTRUMENT was sworn to and subscribed before me this \_\_\_\_ day of September, 2015 by Mark Teague. He is personally known to me, or has produced his \_\_\_\_\_\_ driver's license, or his \_\_\_\_\_\_ as identification.



Teliorat D. Shap

Deforat G. Thrap (Printed Name) NOTARY PUBLIC, STATE OF \_\_\_\_\_

<u>4/25/17</u> (Commission Expiration Date) <u>19970910128</u> (Serial Number, If Any)