

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for approval to include in base rates the revenue requirement for the CR3 regulatory asset, by Duke Energy Florida, Inc.

DOCKET NO. 150148-EI

In re: Petition for issuance of nuclear asset-recovery financing order, by Duke Energy Florida, Inc. d/b/a Duke Energy.

DOCKET NO. 150171-EI
ORDER NO. PSC-16-0090-CFO-EI
ISSUED: March 4, 2016

ORDER GRANTING DUKE ENERGY FLORIDA, LLC'S ELEVENTH THROUGH SEVENTEENTH REQUESTS FOR CONFIDENTIAL CLASSIFICATION (DOCUMENT NOS. 07941-15, 00597-16, 00599-16, 00835-16, 00846-16, 00910-16, and 00912-16)

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 its Eleventh through Seventeenth Requests for Confidential Classification (Requests) of certain information provided to the Bond Team, which was established by Order No. PSC-15-0537-FOF-EI, issued November 19, 2015, in these consolidated dockets. DEF filed its Eleventh Request on December 18, 2015, its Twelfth and Thirteenth Requests on February 1, 2016, its Fourteenth Request on February 16, 2016, its Fifteenth Request on February 15, 2016, and its Sixteenth and Seventeenth Requests on February 18, 2016. The materials that are subject to these Requests are contained in Document Nos. 07941-15, 00597-16, 00599-16, 00835-16, 00846-16, 00910-16, and 00912-16. DEF requests that these materials be granted confidential classification for a period of at least 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.

Along with each of its Requests, DEF separately submitted a sealed Composite Exhibit A, containing an unredacted copy of all the documents for which DEF seeks confidential treatment. In each Exhibit A, the information asserted to be confidential is highlighted in yellow. DEF also submitted a Composite Exhibit B with each Request, containing two copies of redacted versions of the documents for which the Company requests confidential classification. In each Exhibit B, the specific information for which DEF requests confidential treatment has been blocked out by opaque marker or other means. DEF also submitted line-by-line justifications for the confidential treatment of the above-described requested information.

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].” 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)(d) and (e), F.S., provides that proprietary confidential business information includes, but is not limited to “[i]nformation concerning bids or other contractual data, the disclosure of which would impair the efforts of the public utility or its affiliate to contract for goods or services on favorable terms,” and “[i]nformation relating to competitive interests, the disclosure of which would impair the competitive business of the provider of the information.”

DEF contends that the information at issue falls within these categories and thus constitutes proprietary confidential business information entitled to protection under section 366.093, F.S., and Rule 25-22.006, F.A.C. DEF contends that the information relates to the following securitization bond transaction activities: 1) DEF’s engagement with the law firms it retained to work on the securitization (11th Request); 2) communications between DEF and RBC Capital Markets (RBC) concerning RBC’s potential participation as a joint book runner (12th, 13th, and 15th Requests); 3) communications between DEF and Morgan Stanley concerning Morgan Stanley’s potential participation as a co-lead underwriter (14th Request); 4) communications between DEF and Citi concerning Citi’s potential participation as a joint book runner; and 5) a summary comparison of fees and other considerations including rates of financial institutions that DEF considered as joint book runners (17th Request). DEF states that the disclosure of the information would violate the terms of contractual agreements with third parties and impair the efforts of the Company to contract for goods and services on favorable terms. DEF further asserts that disclosure of the information would also adversely impact the competitive business interests of parties contracting with DEF. DEF states that this information is intended to be and is treated by DEF as private and has not been publicly disclosed.

Upon review, it appears that the above-referenced information satisfies the criteria set forth in Section 366.093(3), F.S., for classification as proprietary confidential business information and shall be treated as confidential. The information constitutes “[i]nformation concerning bids or other contractual data, the disclosure of which would impair the efforts of the public utility or its affiliate to contract for goods or services on favorable terms,” and “[i]nformation relating to competitive interests, the disclosure of which would impair the competitive business of the provider of the information.” Thus, this information is 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 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

ORDERED by Commissioner Ronald A. Brisé, as Prehearing Officer, that Duke Energy Florida, LLC’s Eleventh, Twelfth, Thirteenth, Fourteenth, Fifteenth, Sixteenth, and Seventeenth

Requests for Confidential Classification of Document Nos. 07941-15, 00597-16, 00599-16, 00835-16, 00846-16, 00910-16, and 00912-16 are granted. It is further

ORDERED that the information contained in Document Nos. 07941-15, 00597-16, 00599-16, 00835-16, 00846-16, 00910-16, and 00912-16 for which confidential classification has been granted shall remain protected from disclosure for a period of 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 4th day of March, 2016.



RONALD A. BRISE
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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.

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.