

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition to approve transaction for accelerated decommissioning services at CR3 facility, transfer of title to spent fuel and associated assets, and assumption of operations of CR3 facility pursuant to the NRC license, and request for waiver from future application of Rule 25-6.04365, F.A.C. for nuclear decommissioning study, by Duke Energy Florida, LLC.

DOCKET NO. 20190140-EI
ORDER NO. PSC-2020-0067-CFO-EI
ISSUED: March 2, 2020

ORDER GRANTING DUKE ENERGY FLORIDA, LLC'S
REQUEST FOR CONFIDENTIAL CLASSIFICATION
(DOCUMENT NO. 11436-2019, X-REF. 09439-2019)

On October 16, 2019, 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 portions of its responses to Staff's Second Request for Production of Documents Nos. 8, 11, 12 and 13 (Document No. 09439-2019). On December 20, 2019, DEF filed an Amended Request for Confidential Classification of its amended responses to Staff's Second Request for Production of Documents Nos. 8, 11, 12 and 13 (Document No. 11436-2019). DEF has requested that Document No. 11436-2019, with fewer confidential sections, be substituted for Document No. 09439-2019 and that Document No. 09439-2019 be returned to DEF.

Request for Confidential Classification

DEF contends that the information contained in portions of its responses to Staff's Second Request for Production of Documents Nos. 8, 11, 12 and 13, more specifically described in Exhibit C to its Requests, 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 portions of its responses to Staff's Second Request for Production of Documents Nos. 8, 11, 12 and 13 consists of DEF internal reports regarding CR3 decommissioning, feasibility studies, costs analyses of other plant decommissionings, bidder proposal evaluations, and internal CR3 decommissioning reports. These reports contain cost estimates and timelines for the decommissioning project calculated by DEF and third parties as well as bids and contract terms and conditions. DEF states that this material is both proprietary to DEF and its vendors and subject to non-disclosure agreements with those third party vendors. For that reason, DEF argues that this information is protected by Sections 366.093(3)(d) and (e), F.S.

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.

(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 above-referenced information satisfies the criteria set forth in Section 366.093(3), F.S., for classification as proprietary confidential business information. The information contained in DEF's responses to Staff's Second Request for Production of Documents Nos. 8, 11, 12 and 13, if disclosed, could adversely impact DEF's competitive interests as well as the competitive interests of its vendors. Thus, the information identified in Document No.11436-2019, x-ref. 09439-2019, 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.

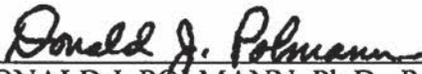
Based on the foregoing, it is hereby

ORDERED by Commissioner Donald J. Polmann, as Prehearing Officer, that Duke Energy Florida, LLC's Request for Confidential Classification of Document No. 11436-2019, x-ref. 09439-2019, is granted, as set forth herein. It is further

ORDERED that the information in Document No. 11436-2020, x-ref. 09439-2019, 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 Donald J. Polmann, as Prehearing Officer, this 2nd day
of March, 2020.


DONALD J. POLMANN, Ph.D., P.E.
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.

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.