



**Matthew R. Bernier**  
Associate General Counsel  
Duke Energy Florida, LLC.

March 10, 2020

**VIA ELECTRONIC FILING**

Adam Teitzman, Commission Clerk  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, Florida 32399-0850

Re: *Fuel and purchased power cost recovery clause with generating performance incentive factor; Docket No. 20200001-EI*

Dear Mr. Teitzman:

Please find enclosed for electronic filing on behalf of Duke Energy Florida, LLC ("DEF"), DEF's Request for Confidential Classification for certain information contained in the Division of Administrative Hearings' Transcript and Exhibits held on February 4 and 5, 2020. The filing includes the following:

- DEF's Request for Confidential Classification
- Slip-sheet for confidential Exhibit A
- Redacted Exhibit B (two copies)
- Exhibit C (justification matrix), and
- Exhibit D (affidavit of Jeffrey Swartz)

DEF's confidential Exhibit A that accompanies the above-referenced was submitted with DEF's Notice of Intent to Request Confidential Classification on February 18, 2020, 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,

*s/Matthew R. Bernier*

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Matthew R. Bernier

MRB/mw  
Enclosures

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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

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Docket No. 20200001-EI

Dated: March 10, 2020

**DUKE ENERGY FLORIDA LLC'S  
REQUEST FOR CONFIDENTIAL CLASSIFICATION**

Duke Energy Florida, LLC (“DEF” or “Company”), pursuant to Section 366.093, Florida Statutes (F.S.), and Rule 25-22.006, Florida Administrative Code (F.A.C.), submits this Request for Confidential Classification for certain information provided in the Exhibits and hearing transcript held on February 4 and 5, 2020 at the Division of Administrative Hearings’ (“DOAH”), submitted on February 18, 2020 with DEF’s Notice of Intent to Request Confidential Classification. This Request is timely. See Rule 25-22.006(3)(a)1, F.A.C. In support of this Request, DEF states:

1. The DOAH transcript, Volumes 1, 2, and 3 and Exhibits 101 through 113 and 115 through 117, contain “proprietary confidential business information” under § 366.093(3), Florida Statutes.

2. The following exhibits are included with this request:

(a) Sealed Composite Exhibit A is a package containing unredacted copies of all the documents for which DEF seeks confidential treatment. Composite Exhibit A was submitted separately in a sealed envelope labeled “CONFIDENTIAL” on February 18, 2020, with DEF’s Notice of Intent to Request Confidential Classification.

(b) 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.

(c) Exhibit C is a table which identifies by page and line the information for which DEF seeks confidential classification and the specific statutory bases for seeking confidential treatment.

3. As indicated in Exhibit C, the information for which DEF requests confidential classification is “proprietary confidential business information” within the meaning of Section 366.093(3), F.S. Specifically, the information at issue includes proprietary and confidential third-party owned information, the disclosure of which would impair the third-party’s competitive business interests, and if disclosed, the Company’s competitive business interests and efforts to contract for goods and services on favorable terms. *See* § 366.093(3)(d) & (e), F.S.; Affidavit of Jeffrey Swartz at ¶¶ 4, 5 and 6. Accordingly, such information constitutes “proprietary confidential business information” which is exempt from disclosure under the Public Records Act pursuant to Section 366.093(1), F.S.

4. The information at issue contains proprietary and confidential third-party owned information, diagrams, and technical information regarding the third-party’s proprietary component design and operation parameters. If DEF cannot demonstrate to its third-party OEM, and others that may enter contracts with DEF in the future, that DEF has the ability to protect those third-parties’ confidential and proprietary business information, third-parties will be less likely to provide that information to DEF – harming DEF’s ability to prudently operate its business. *See* § 366.093(3)(d) & (e), F.S.; Affidavit of Jeffrey Swartz at ¶¶ 4, 5 and 6. Furthermore, disclosure of the information

could detrimentally impact DEF's ability to negotiate favorable contracts as third-parties may begin to demand a "premium" to do business with DEF to account for the risk that its proprietary information will become a matter of public record, thereby harming DEF's competitive interests and ultimately its customers' financial interests. See § 366.093(3)(e), F.S.; Affidavit of Jeffrey Swartz at ¶ 6. Accordingly, such information constitutes "proprietary confidential business information" which is exempt from disclosure under the Public Records Act pursuant to Section 366.093(1), F.S.

5. The information identified as Exhibit "A" is intended to be and is treated as confidential by the Company. See Affidavit of Jeffrey Swartz at ¶ 7. The information has not been disclosed to the public, and the Company has treated and continues to treat the information and contracts at issue as confidential. See Affidavit of Jeffrey Swartz at ¶ 7.

6. DEF requests that the information identified in Exhibit A be classified as "proprietary confidential business information" within the meaning of section 366.093(3), F.S., that the information remain confidential 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.

WHEREFORE, for the foregoing reasons, DEF respectfully requests that this Request for Confidential Classification be granted.

RESPECTFULLY SUBMITTED this 10<sup>th</sup> day of March, 2020.

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

**DIANNE M. TRIPLETT**

Deputy General Counsel

299 First Avenue North

St. Petersburg, FL 33701

T: 727-820-4692

F: 727-820-5041

Email: [Dianne.Triplett@duke-energy.com](mailto:Dianne.Triplett@duke-energy.com)

**MATTHEW R. BERNIER**

Associate General Counsel

106 East College Avenue, Suite 800

Tallahassee, Florida 32301

T: 850-521-1428

F: 727-820-5519

Email: [Matthew.Bernier@duke-energy.com](mailto:Matthew.Bernier@duke-energy.com)

Attorneys for Duke Energy Florida, LLC

**CERTIFICATE OF  
SERVICE** Docket No.  
20200001-EI

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished via email this 10<sup>th</sup> day of March, 2020, to all parties of record as indicated below.

s/Matthew R. Bernier  
Attorney

<p>Suzanne Brownless Office of General Counsel FL Public Service Commission 2540 Shumard Oak Blvd. Tallahassee, FL 32399-0850 <a href="mailto:sbrownle@psc.state.fl.us">sbrownle@psc.state.fl.us</a></p> <p>J. Beasley / J. Wahlen / M. Means Ausley McMullen P.O. Box 391 Tallahassee, FL 32302 <a href="mailto:jbeasley@ausley.com">jbeasley@ausley.com</a> <a href="mailto:jwahlen@ausley.com">jwahlen@ausley.com</a> <a href="mailto:mmeans@ausley.com">mmeans@ausley.com</a></p> <p>Russell A. Badders Gulf Power Company One Energy Place, Bin 100 Pensacola, FL 32520-0100 <a href="mailto:russell.badders@nexteraenergy.com">russell.badders@nexteraenergy.com</a></p> <p>Kenneth A. Hoffman Florida Power &amp; Light Company 134 W. Jefferson Street Tallahassee, FL 32301-1713 <a href="mailto:ken_hoffman@fpl.com">ken_hoffman@fpl.com</a></p> <p>Jon C. Moyle, Jr. Moyle Law Firm, P.A. 118 North Gadsden Street Tallahassee, FL 32301 <a href="mailto:jmoyle@moylelaw.com">jmoyle@moylelaw.com</a> <a href="mailto:mqualls@moylelaw.com">mqualls@moylelaw.com</a></p>	<p>J.R. Kelly / T. David Office of Public Counsel 111 W. Madison St., Room 812 Tallahassee, FL 32399-1400 <a href="mailto:kelly.jr@leg.state.fl.us">kelly.jr@leg.state.fl.us</a> <a href="mailto:david.tad@leg.state.fl.us">david.tad@leg.state.fl.us</a></p> <p>Paula K. Brown Regulatory Affairs Tampa Electric Company P.O. Box 111 Tampa, FL 33601-0111 <a href="mailto:regdept@tecoenergy.com">regdept@tecoenergy.com</a></p> <p>Maria Moncada / David Lee Florida Power &amp; Light Company 700 Universe Blvd. (LAW/JB) Juno Beach, FL 33408-0420 <a href="mailto:maria_moncada@fpl.com">maria_moncada@fpl.com</a> <a href="mailto:david.lee@fpl.com">david.lee@fpl.com</a></p> <p>James Brew / Laura W. Baker Stone Law Firm 1025 Thomas Jefferson St., N.W. Suite 800 West Washington, DC 20007 <a href="mailto:jbrew@smxblaw.com">jbrew@smxblaw.com</a> <a href="mailto:lwb@smxblaw.com">lwb@smxblaw.com</a></p> <p><u>Mike Cassel</u> Florida Public Utilities Company 208 Wildlight Avenue Yulee, FL 32097 <a href="mailto:mcassel@fpuc.com">mcassel@fpuc.com</a></p> <p>Beth Keating Gunster, Yoakley &amp; Stewart, P.A. 215 South Monroe Street, Suite 601 Tallahassee, FL 32301 <a href="mailto:bkeating@gunster.com">bkeating@gunster.com</a></p>
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# **Exhibit A**

**“CONFIDENTIAL”**

**(submitted on February 18, 2020, under separate cover)**

# **Exhibit B**

**REDACTED**

**(Copy one)**



Docket No. 20200001

DOAH Transcript

Volume 1

**REDACTED** in its entirety

Docket No. 20200001

DOAH Transcript

Volume 2

**REDACTED** in its entirety

Docket No. 20200001

DOAH Transcript

Volume 3

**REDACTED** in its entirety

Docket No. 20200001

DOAH Transcript

Exhibits 101 through 113 and 115-117

REDACTED in their entirety

# **Exhibit B**

**REDACTED**

**(Copy two)**

Docket No. 20200001

DOAH Transcript

Volume 1

REDACTED in its entirety

Docket No. 20200001

DOAH Transcript

Volume 2

**REDACTED** in its entirety

Docket No. 20200001

DOAH Transcript

Volume 3

**REDACTED** in its entirety



Docket No. 20200001

DOAH Transcript

Exhibits 101 through 113 and 115-117

REDACTED in their entirety

## Exhibit C

### DUKE ENERGY FLORIDA Confidentiality Justification Matrix

<b>DOCUMENT/RESPONSES</b>	<b>PAGE/LINE</b>	<b>JUSTIFICATION</b>
DOAH Transcript-Volumes 1, 2, and 3 and Exhibits 101-113 and 115-117	All information in Volumes 1, 2, and 3 is confidential in their entirety.  All information in Exhibits 101 through 113 and 115 through 117.	§366.093(3)(d), F.S. The document in question 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.

# **Exhibit D**

## **AFFIDAVIT OF JEFFREY SWARTZ**

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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

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Docket No. 20200001-EI

Dated: March 10, 2020

**AFFIDAVIT OF JEFFREY SWARTZ IN SUPPORT OF  
DUKE ENERGY FLORIDA'S  
REQUEST FOR CONFIDENTIAL CLASSIFICATION**

STATE OF FLORIDA

COUNTY OF PINELLAS

BEFORE ME, the undersigned authority duly authorized to administer oaths, personally appeared Jeffrey Swartz, who being first duly sworn, on oath deposes and says that:

1. My name is Jeffrey Swartz. I am over the age of 18 years old and I have been authorized by Duke Energy Florida (hereinafter "DEF" or the "Company") to give this affidavit in the above-styled proceeding on DEF's behalf and in support of DEF's Request for Confidential Classification (the "Request"). The facts attested to in my affidavit are based upon my personal knowledge.

2. I am the Vice President of Florida Generation in the Fossil Hydro Operations Department. This section is responsible for overall leadership and strategic direction of DEF's power generation fleet.

3. As the Vice President of Florida Generation, I am responsible, along with the other members of the section, for strategic and tactical planning to operate and maintain DEF's non-nuclear generation fleet, generation fleet project and additions

recommendations, major maintenance programs, outage and project management, and retirement of generation facilities.

4. DEF is seeking confidential classification information contained in the exhibits and hearing transcript held on February 4 and 5, 2020, specifically Volumes 1, 2, and 3 and Exhibits 101 through 113 and 115 through 117. 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 DEF's Request as Exhibit C. DEF is requesting confidential classification of this information because it contains sensitive business information, the disclosure of which would impair the Company's competitive business interests and ability to contract for goods and services on favorable terms.

5. The confidential information at issue relates to proprietary and confidential third-party operating procedures, drawings, and technical information regarding the third-party's proprietary component design and operation parameters, the disclosure of which would impair third-party's competitive business interests, and if disclosed, the Company's competitive business interests and efforts to contact for goods or services on favorable terms.

6. Further, if DEF cannot demonstrate to its third-party OEM, and others that may enter contracts with DEF in the future, that DEF has the ability to protect those third-parties' confidential and proprietary business information, third-parties will be less likely to provide that information to DEF – harming DEF's ability to prudently operate its business. DEF has not publicly disclosed the information. Without DEF's measures to maintain the confidentiality of this sensitive business information, DEF's ability to contract with third-parties could detrimentally impact DEF's ability to negotiate

favorable contracts, as third-parties may begin to demand a “premium” to do business with DEF to account for the risk that its proprietary information will become a matter of public record, thereby harming DEF’s competitive interests and ultimately its customers’ financial interests.

7. Upon receipt of 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, and restricting the number of, and access to the information and contracts. At no time since receiving the information in question has the Company publicly disclosed that information. The Company has treated and continues to treat the information at issue as confidential.

8. This concludes my affidavit.

Further affiant sayeth not.

Dated the 9<sup>th</sup> day of March, 2020.

Jeffrey Swartz

(Signature)

Jeffrey Swartz

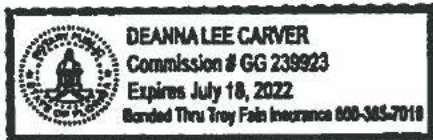
Vice President Florida Generation

Duke Energy Florida, LLC

Florida Regional Headquarters

St. Petersburg, FL

9 THE FOREGOING INSTRUMENT was sworn to and subscribed before me this 9 day of March, 2020 by Jeffrey Swartz. He is personally known to me or has produced his \_\_\_\_\_ driver's license, or his \_\_\_\_\_ as identification.



(AFFIX NOTARIAL SEAL)

Deanna Lee Carver

(Signature)

Deanna Lee Carver

(Printed Name)

NOTARY PUBLIC, STATE OF FL

July 18, 2022

(Commission Expiration Date)

(Serial Number, If Any)