

State of Florida



# Public Service Commission

CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD  
TALLAHASSEE, FLORIDA 32399-0850

**-M-E-M-O-R-A-N-D-U-M-**

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**DATE:** June 5, 2020

**TO:** Division of Accounting and Finance, Office of Primary Responsibility

**FROM:** OFFICE OF COMMISSION CLERK

**RE:** CONFIDENTIALITY OF CERTAIN INFORMATION

DOCKET NOS: 20200001-EI DOCUMENT NO: 02889-2020

DESCRIPTION: Duke Energy (Bernier) - (CONFIDENTIAL) Certain information provided in exceptions to Administrative Law Judge's Recommended Order dated 4/27/20, Exh A [to request for confidential classification (DN 02887-2020)].

SOURCE: Duke Energy Florida, LLC

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The above confidential material was filed along with a request for extension of confidential classification. Please complete the following form by checking all applicable information and forward it to the attorney assigned to the docket, along with a brief memorandum supporting your recommendation.

- The document(s) is (are), in fact, what the utility asserts it (them) to be.
- The utility has provided enough details to perform a reasoned analysis of its request.
- The material has been received incident to an inquiry.
- The material is confidential business information because it includes:
- (a) Trade secrets;
  - (b) Internal auditing controls and reports of internal auditors;
  - (c) Security measures, systems, or procedures;
  - (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 information;
  - (f) Employee personnel information unrelated to compensation, duties, qualifications, or responsibilities;
- The material appears to be confidential in nature and harm to the company or its ratepayers will result from public disclosure.
- The material appears not to be confidential in nature.
- The material is a periodic or recurring filing and each filing contains confidential information.

This response was prepared by /s/Devlin Higgins on 6.5.20, a copy of which has been sent to the Office of Commission Clerk and the Office of General Counsel.

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**-M-E-M-O-R-A-N-D-U-M-**

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**DATE:** June 5, 2020

**TO:** Suzanne S. Brownless, Special Counsel, Office of the General Counsel

**FROM:** Devlin Higgins, Public Utility Analyst IV, Division of Accounting & Finance

**RE:** CONFIDENTIALITY OF CERTAIN INFORMATION  
DOCKET NO: 20200001-EI DOCUMENT Nos: 02889-2020  
DESCRIPTION: Duke Energy (Bernier) - (CONFIDENTIAL) Certain information provided in exceptions to Administrative Law Judge's Recommended Order dated 4/27/20, Exh A [to request for confidential classification (DN 02887-2020)].

SOURCE: Duke Energy Florida

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Pursuant to Section 366.093, Florida Statutes (F.S.), and Rule 25-22.006, Florida Administrative Code, Duke Energy Florida (DEF or Company) requests confidential classification of certain information provided in Exceptions to the Recommended Order (RO) of Administrative Law Judge with the Division of Administrative Hearings (DOAH).

Due to concerns regarding the maintenance of confidentiality with respect to the information subject to this request, the Florida Public Service Commission by Order No. PSC-2019-0484-FOF-EI, and Document No. 10846-2019, sent this matter for hearing to the Florida Division of Administrative Hearings.<sup>1</sup>

The Company is claiming confidentiality of its filing under Section 366.093(3)(d), F.S., and Section 366.093(3)(e), F.S. Per the Statute, propriety of confidential business information includes, but is not limited to: Subsection (d) “[i]nformation 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 Subsection (e) “[i]nformation relating to competitive interests, the disclosure of which would impair the competitive business of the provider of the information.”

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<sup>1</sup>Order No. PSC-2019-0484-FOF-EI, Issued November 18, 2019, Docket No. 20190001-EI, *In re: Fuel and purchased power cost recovery clause with generating performance incentive factor.*

More specifically, the information at issue relates to claimed proprietary and confidential information regarding a third-party's (to DEF) component/equipment design and operation parameters. DEF asserts that if it cannot demonstrate to its third-party partners that the Company has the ability to protect those third-parties' confidential and proprietary business information, it will be less likely that DEF can secure contracts that benefit its customers.

Staff has previously reviewed the subject information as well as the Company's confidentiality request. It is staff's opinion that the information subject to this request meets the criteria for confidentiality contained in Section 366.093(3)(d), F.S. and Section 366.093(3)(e), F.S.