

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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

DOCKET NO. 20220001-EI
ORDER NO. PSC-2022-0087-CFO-EI
ISSUED: February 21, 2022

ORDER GRANTING SECOND EXTENSION OF CONFIDENTIAL
CLASSIFICATION (DOCUMENT NO. 09533-2019)

On June 18, 2021, 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 Second Request for Extension of Confidential Classification (Request) of portions of the direct testimony of Jeffrey Swartz, specifically pages 3, 5, and 6 and portions of Revised Exhibit No. (JS-1); portions of Exhibit No. (CAM-2T), Calculation of Actual True-Up, and portions of Exhibit No. (CAM-3T), Schedule A 1 2, attached to the testimony of Christopher A. Menendez (Document No. 09533-2019, x-ref. 02031-2018). This material was originally filed in Docket No. 20180001-EI, and was previously granted confidential classification by Order No. PSC-2018- 0198-CFO-EI, issued on April 23, 2018, and Order No. PSC-2019-0543-CFO-EI, issued on December 20, 2019.

Request for Confidential Classification

DEF contends that the information contained in Revised Exhibit No. (JS-1), (CAM-3T) and in portions of the direct testimony of Jeffrey Swartz, 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 Exhibit Nos. (CAM-2T) and (CAM-3T) consists of contractual cost data pertaining to the sale of Batch 19 Nuclear Fuel and capacity purchases. DEF has entered into confidentiality agreements with its nuclear fuel vendors that prohibit it from disclosing pricing information. The information contained in the direct testimony of Jeffrey Swartz consists of descriptions of the Root Cause Analysis report prepared for the Bartow Steam Turbine Event. Revised Exhibit (JS-1) is the Root Cause Analysis report itself. 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 continues to satisfy the criteria set forth in Section 366.093(3), F.S., for classification as proprietary confidential business information. The contractual cost data associated with the sale of Batch 19 Nuclear Fuel and capacity purchases, if disclosed, could adversely impact DEF's competitive interests as well as the competitive interests of its vendors. Further, disclosure of this information could result in higher prices for purchased capacity in the future. Finally, disclosure of this information would violate existing nondisclosure contracts DEF has negotiated with its fuel suppliers. Additionally, disclosure of the Root Cause Analysis report potentially impacts the viability of claims against third parties related to that event to the ratepayers' detriment. Further, nothing has changed since the issuance of Order No. PSC-2019-0543-CFO-EI to render the remaining information stale or public such that continued treatment is inappropriate. For these reasons, this information appears to be "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" and "information relating to competitive interests, the disclosure of which would impair the competitive business of the provider of the information." Thus, the information identified in Document No. 09533-2019 shall be granted continued 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 Mike La Rosa, as Prehearing Officer, that Duke Energy Florida, LLC's Second Request for Confidential Classification of Document No. 09533-2019, is granted, as set forth herein. It is further

ORDERED that the information in Document No. 09533-2019, 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 Mike La Rosa, as Prehearing Officer, this 21st day of February, 2022.



Mike La Rosa
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.