

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for Determination)
of Cost Effective Generation Alternative)
to Meet Need Prior to 2018 for Duke)
Energy Florida, Inc.)
_____)

DOCKET NO. 140111-EI
Submitted for filing: August 6, 2014

REDACTED

DUKE ENERGY FLORIDA, INC.'S ELEVENTH REQUEST FOR CONFIDENTIAL CLASSIFICATION REGARDING PORTIONS OF RESPONSES TO NRG FLORIDA LP'S THIRD REQUEST FOR PRODUCTION OF DOCUMENTS

Duke Energy Florida, Inc. ("DEF" or the "Company"), pursuant to Section 366.093, Florida Statutes, and Rule 25-22.006(3), Florida Administrative Code ("F.A.C."), files this Request for Confidential Classification Regarding Portions of Duke Energy Florida, Inc.'s responses to NRG Florida LP's Third Request for Production of Documents (Nos. 31-35). Specifically, DEF is seeking confidential classification of its response to NRG Florida LP's Third Request for Production of Documents, Number 31. Unredacted versions of the documents discussed above are being filed under seal with the Commission as Appendix A on a confidential basis to keep the competitive business information in those documents confidential.

With respect to the confidential information contained in the responses to NRG Florida LP's, DEF filed its Notice of Intent to Request Confidential Classification on July 16, 2014 (Document No. 03763-14). Pursuant to Rule 25-22.006(3), Florida Administrative Code, this request is timely. DEF hereby submits the following in support of its confidentiality request.

- COM _____
- AFD 1
- APA _____
- ECO 1
- ENG 3 + redacted EFB
- GCL 1
- IDM 1
- TEL _____
- CLK _____

RECEIVED-FPSC
14 AUG - 6 PM 2: 25
COMMISSION
CLERK

BASIS FOR CONFIDENTIAL CLASSIFICATION

Section 366.093(1), Florida Statutes, 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].” § 366.093(1), Fla. Stat. Proprietary confidential business information means information that is (i) intended to be and is treated as private confidential information by the Company, (ii) because disclosure of the information would cause harm, (iii) either to the Company’s ratepayers or the Company’s business operation, and (iv) the information has not been voluntarily disclosed to the public. § 366.093(3), Fla. Stat. Specifically, “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” is defined as proprietary confidential business information. § 366.093(3)(d), Fla. Stat. Additionally, subsection 366.093(3)(e) defines “information relating to competitive interests, the disclosure of which would impair the competitive business of the provider of the information,” as proprietary confidential business information.

DEF is requesting confidential classification of the responsive information to NRG’s Third Request for Production of Documents No. 31, specifically as noted above and in the supporting Affidavit of Benjamin M.H. Borsch ¶¶ 3-4, because the response contains proprietary and confidential competitive business information and contractual data and competitively sensitive commercial information and potential supplier data, the disclosure of which would adversely impact DEF’s competitive business interests. Affidavit of Borsch, ¶ 5. The Company must be able to assure these vendors that sensitive business information will be kept confidential. Indeed, most of the contracts at issue contain confidentiality provisions that prohibit the disclosure of the terms of the contract to third parties. Id. If third parties were made

aware of confidential contractual terms and conditions that the Company has with other parties, they may offer DEF less competitive contractual terms and conditions in any future contractual negotiations. Without DEF's measures to maintain the confidentiality of sensitive terms in these proposals and contracts between DEF and these vendors, the Company's efforts to obtain competitive contracts would be undermined. Affidavit of Borsch, ¶ 6.

Confidentiality Procedures

Strict procedures are established and followed to maintain the confidentiality of the terms of all of the confidential documents and information at issue, including restricting access to those persons who need the information and documents to assist the Company. See Affidavit of Borsch, ¶ 7.

At no time has the Company publicly disclosed the confidential information or documents at issue; DEF has treated and continues to treat the information and documents at issue as confidential. See Affidavit of Borsch, ¶ 8. DEF requests this information be granted confidential treatment by the Commission.

Conclusion

The competitive, confidential information at issue in this Request fits the statutory definition of proprietary confidential business information under Section 366.093, Florida Statutes, and Rule 25-22.006, F.A.C., and therefore that information should be afforded confidential classification. In support of this motion, DEF has enclosed the following:

(1) A separate, sealed envelope containing one copy of the confidential Appendix A to DEF's Eleventh Request for Confidential Classification which DEF intends to request confidential classification with the appropriate section, pages, or lines containing the confidential information highlighted. **This information should be accorded confidential treatment pending a decision on DEF's Request by the Commission;**

(2) Two copies of the documents with the information for which DEF intends to request confidential classification redacted by section, pages, or lines where appropriate as Appendix B; and,

(3) A justification matrix of the confidential information contained in Appendix A supporting DEF's Request, as Appendix C.

WHEREFORE, DEF respectfully requests that the redacted portions of DEF's response to NRG Florida LP's Third Request for Production of Documents No. 31 be classified as confidential for the reasons set forth above.

Respectfully submitted this 6th day of August, 2014.

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY a true and correct copy of the foregoing has been furnished to counsel and parties of record as indicated below via electronic and overnight mail this 6th day of August, 2014.

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DOCKET 140111-EI

In re: Petition for Determination of Cost Effective Generation
Alternative to Meet Need Prior To 2018 For Duke Energy Florida, Inc.

Duke Energy Florida, Inc.'s
Eleventh
Request for Confidential Classification

EXHIBIT B

DOCKET 140111-EI

In re: Petition for Determination of Cost Effective Generation
Alternative to Meet Need Prior To 2018 For Duke Energy Florida, Inc.

Duke Energy Florida, Inc.'s
Eleventh
Request for Confidential Classification

Document bearing Bates Numbers
14LGBRA-NRGPOD3-31-000001
through
14LGBRA-NRGPOD3-31-000075
in its entirety

DUKE ENERGY FLORIDA
DOCKET NO. 140111-EI
Eleventh Request for Confidential Classification
Confidentiality Justification Matrix

DOCUMENT	PAGE/LINE/ COLUMN	JUSTIFICATION
Duke Energy Florida, Inc.'s Responses to NRG Florida LP's Third Request for Production No. 31, Bates No. 14LGBRA-NRGPOD3-31-000001 through 14LGBRA-NRGPOD3-31-000075	Entire Document	<p>366.093(3)(a), Fla. Stat. The document in question contains proprietary confidential information relating to trade secrets, the disclosure of which would impair DEF's business operations.</p> <p>§366.093(3)(d), Fla. Stat. The document portions in question contain confidential contractual information, the disclosure of which would impair DEF's efforts to contract for goods or services on favorable terms.</p> <p>§366.093(3)(e), Fla. Stat. The document portions in question contain confidential information relating to competitive business interests, the disclosure of which would impair the competitive business of the provider/owner of the information.</p>