



Matthew R. Bernier
ASSOCIATE GENERAL COUNSEL

August 12, 2019

VIA ELECTRONIC FILING

Adam J. 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 20190001-EI

Dear Mr. Teitzman:

Please find enclosed for electronic filing on behalf of Duke Energy Florida, LLC (DEF), DEF's Request for Confidential Classification of certain information provided in DEF's Response to OPC's Third Request for Production of Documents (Nos. 30-33) and DEF's Corrected Response to OPC's Third Set of Interrogatories (Nos. 16-17), in the above-referenced docket. The filing includes the following:

- Exhibit A (slipsheet only);
- Exhibit B (two copies);
- Exhibit C (justification matrix); and
- Exhibit D (Affidavit of Jeffrey Swartz).

DEF's confidential Exhibit A, for the above-referenced filing was provided on July 26, 2019 (document numbers 06046-2019 and 06052-2019), under separate cover on CD. A highlighted copy on CD has been provided on August 12, 2019.

Thank you for your assistance in this matter. If you have any questions, please feel free to contact me at (850) 521-1428.

Sincerely,

/s/ Matthew R. Bernier

Matthew R. Bernier

MRB/cmkk
Enclosures

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Fuel and purchased power cost recovery
Clause with generating performance incentive
Factor

Docket No. 20190001-EI

Filed: August 12, 2019

**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 DEF’s Response to OPC’s Third Request for Production of Documents (Nos. 30-33) and Corrected Response to OPC’s Third Set of Interrogatories (Nos. 16-17), served on July 22, 2019, and July 25, 2019, respectively, concurrently with DEF’s Notices 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:

DEF’s Response to OPC’s Third Request for Production of Documents (Nos. 30-33), specifically number 30,¹ and Corrected Response to OPC’s Third Set of Interrogatories (Nos. 16-17), specifically number 16, contain “proprietary confidential business information” under § 366.093(3), Florida Statutes.

1. The following exhibits are included with this request:

(a) Sealed Composite Exhibit A is a package containing an unredacted copy of all the documents for which DEF seeks confidential treatment. In the unredacted version, the information asserted to be confidential is highlighted in yellow.

¹ Please note, DEF’s Notice of Intent to Request Confidential Classification covering its Responses to OPC’s Third Request for Production of Documents included a claim of confidentiality for documents produced in response to No. 33; that claim is being withdrawn. The information responsive to number 33 has been previously disclosed and is not confidential.

(b) Composite Exhibit B is a package containing two copies of redacted versions of the documents for which the Company requests confidential classification, or slip-sheets for documents which are confidential in their entirety. 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 the information for which DEF seeks confidential classification and the specific statutory bases for seeking confidential treatment.

(d) Exhibit D is an affidavit attesting to the confidential nature of information identified in this request.

2. As indicated in Exhibit C, the information for which DEF requests confidential classification is “proprietary confidential business information” within the meaning of § 366.093(3), F.S. Specifically, the answers provided in response to Request for Production number 30, contain confidential contractual information, including requests for proposals and responses thereto from third-party vendors. The disclosure of that information to the public would adversely impact DEF and third-party vendors’ competitive business interests. *See* §§ 366.093(3)(d) & (e), F.S.; Affidavit of Jeffrey Swartz at ¶¶ 4 and 5. Accordingly, such information constitutes “proprietary confidential business information” which is exempt from disclosure under the Public Records Act pursuant to § 366.093(1), F.S.

3. Additionally, the document produced in DEF’s corrected response to OPC’s Third Set of Interrogatories contains “proprietary confidential business information” within the meaning of § 366.093(3), F.S. Specifically, the document at issue contains DEF’s review of the proposals received in response to the RFP discussed in response to Request number 30, as provided above. DEF’s review includes confidential information received from each of the responding vendors, as well as DEF’s analysis thereof. Public release of this information would

not only harm the competitive interests of DEF, and therefore its customers interests, by providing insight into DEF's evaluation of proposals, but would also harm the competitive interest of the third parties providing this information. If DEF cannot maintain the confidentiality of third party vendor's proprietary information, it will be less likely that DEF can secure contracts that benefit its customers. *See* Affidavit of Swartz at ¶¶ 4 and 5. This information is proprietary and confidential information as provided by law. *See* § 366.093(3)(d) & (e), F.S.

4. The information identified as Exhibit "A" is intended to be and is treated as confidential by the Company. *See* Affidavit of Swartz at ¶¶ 5 and 6. The information has not been disclosed to the public, and the Company and third-party vendors have treated and continue to treat this information as confidential. *Id.*

5. DEF requests that the information identified in Exhibit A be classified as "proprietary confidential business information" within the meaning of § 366.093(3), F.S., that the information remains confidential for a period of at least 18 months as provided in § 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 12th day of August, 2019.

/s/ Matthew R. Bernier

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished via electronic mail to the following this 12th day of August, 2019.

/s/ Matthew R. Bernier

Attorney

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Exhibit A

CONFIDENTIAL

(FILED UNDER SEPARATE COVER)

Exhibit B

REDACTED

Duke Energy Florida
Docket No. 20190001
DEF's Response to OPC's 3rd PODs (Nos. 30-33)
Q30

REDACTED

The documents bearing bates numbers DEF-19FL-FUEL-001680 through DEF-19FL-FUEL-002623 are confidential in their entirety.

REDACTED

The documents bearing bates numbers DEF-19FL-FUEL-001602 through DEF-19FL-FUEL-001679 and DEF-19FL-FUEL-002624 are confidential in their entirety.

Duke Energy Florida
Docket No. 20190001
DEF's Response to OPC's 3rd PODs (Nos. 30-33)
Q30

REDACTED

The documents bearing bates numbers DEF-19FL-FUEL-001680 through DEF-19FL-FUEL-002623 are confidential in their entirety.

REDACTED

The documents bearing bates numbers DEF-19FL-FUEL-001602 through DEF-19FL-FUEL-001679 and DEF-19FL-FUEL-002624 are confidential in their entirety.

Exhibit C**DUKE ENERGY FLORIDA
Confidentiality Justification Matrix**

DOCUMENT/RESPONSES	PAGE/LINE	JUSTIFICATION
DEF's Corrected Response to Citizens' Third Set of Interrogatories (Nos. 16-17), specifically Question 16	Question 16: the information contained in the response in their entirety.	<p>§ 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.</p> <p>§ 366.093(3)(e), F.S. The document in question contains confidential information, the disclosure of which would impair DEF's competitive interests, the disclosure would impair the competitive business.</p>
DEF's Response to Citizens' Third Request for Production of Documents (Nos. 30-33), specifically Question 30	Question 30: the information contained in the response in their entirety.	<p>§ 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.</p> <p>§ 366.093(3)(e), F.S. The document in question contains confidential information, the disclosure of which would impair DEF's competitive interests, the disclosure would impair the competitive business.</p>

Exhibit D

AFFIDAVIT OF JEFFREY SWARTZ

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Fuel and purchased power cost recovery
Clause with generating performance incentive
Factor

Docket No. 20190001-EI

Filed: August 9, 2019

**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. I am responsible for the overall leadership and strategic direction of DEF's power generation fleet. My major duties and responsibilities include 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; retirement of generation facilities; asset allocation; workforce planning and staffing; organizational alignment and design; continuous

business improvements; retention and inclusion; succession planning; and oversight of hundreds of employees and hundreds of millions of dollars in assets and capital and operating budgets.

3. DEF is seeking confidential classification for certain responses to OPC's Third Request for Production of Documents (Nos. 30-33), specifically number 30, and Corrected Response to OPC's Third Set of Interrogatories (Nos. 16-17), specifically number 16, submitted on July 22, 2019, and July 25, 2019, respectively. 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 efforts to contract for goods or services on favorable terms.

4. In order to contract with third party vendors and Original Equipment Manufacturers on favorable terms (for the benefit of both the Company and its customers), DEF often engages in competitive bidding by issuing a Request for Proposals from qualifying parties. At times, due to the technical nature of the information included, an RFP requires confidential treatment and often, responses received from bidders must be treated as confidential, as they contain proprietary information owned by the third-parties; such is the case with the information at issue in this request. Moreover, the information at issue here includes DEF's evaluation of the confidential information received from third-parties. This information remains confidential, but also contains DEF's analysis, which is also confidential as it could provide valuable insight into DEF's internal processes to market participants that could alter their proposals, potentially to the detriment of DEF and its customers.

5. Therefore, DEF takes affirmative steps to prevent the disclosure of this information to the public, as well as limits its dissemination within the Company to those employees with a need to access the information to provide their job responsibilities. Absent such measures, suppliers would run the risk that sensitive business information that they provided in their bids/contracts with DEF would be made available to the public and, as a result, end up in possession of potential competitors. Faced with that risk, persons or companies who otherwise would contract with DEF might decide not to do so if DEF did not keep specific information confidential. Without DEF's measures to maintain the confidentiality of sensitive terms in contracts between DEF and fuel suppliers, the Company's efforts to obtain competitive fuel supply contracts could be undermined.

6. Upon receipt of confidential information from fuel suppliers, and with 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 contracts and information in question has the Company publicly disclosed that information. The Company has treated and continues to treat the information and contracts at issue as confidential.

7. This concludes my affidavit.

Further affiant sayeth not.

Dated the 8th day of August, 2019.

Jeffrey Swartz
(Signature)
Jeffrey Swartz
Vice President – Generation Florida

THE FOREGOING INSTRUMENT was ~~sworn to and~~ subscribed before me this 8th day of August, 2019 by Jeffrey Swartz. He is personally known to me, or has produced his _____ driver's license, or his _____ as identification.

Deanna Lee Carver
(Signature)
Deanna Lee Carver
(Printed Name)

(AFFIX NOTARIAL SEAL)

NOTARY PUBLIC, STATE OF FL

July 18, 2022
(Commission Expiration Date)



(Serial Number, If Any)