



Dianne M. Triplett
ASSOCIATE GENERAL COUNSEL
Duke Energy Florida, LLC

June 15, 2017

Via ELECTRONIC DELIVERY

Ms. Carlotta Stauffer, Commission Clerk
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

Re: Docket 170009-EI; Nuclear cost recovery clause

Ms. Stauffer:

Please find enclosed for electronic filing on behalf of Duke Energy Florida, LLC ("DEF"), DEF's Fourth Request for Confidential Classification that pertains to DEF's Responses to Staff's First Request for Production of Documents propounded in the above-referenced docket.

Thank you for your assistance in this matter. If you have any questions, please feel free to contact me at (727) 820-4692.

Sincerely,

/s/ Dianne M. Triplett

Dianne M. Triplett

DMT/at
Attachment

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Nuclear Cost Recovery Clause

Docket No. 170009-EI
Submitted for Filing: June 15, 2017

**DUKE ENERGY FLORIDA, LLC'S FOURTH REQUEST FOR
CONFIDENTIAL CLASSIFICATION REGARDING DEF'S RESPONSE
TO STAFF'S FIRST REQUEST FOR PRODUCTION**

Duke Energy Florida, LLC (“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 Fourth Request for Confidential Classification (the “Request”) regarding portions of DEF’s Response to Staff’s First Request for Production of Documents filed May 31, 2017. Those confidential documents were filed in this docket on May 31, 2017 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:

As further explained below, portions of DEF’s Response to Staff’s First Request for Production of Documents contain “proprietary confidential business information” under section 366.093(3), Fla. Stat.

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. Composite Exhibit A was submitted separately in a sealed envelope labeled “CONFIDENTIAL.” In the unredacted version, the information asserted to be confidential is highlighted in yellow.

(b) Composite Exhibit B includes 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.

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

DEF is seeking confidential classification of the following materials filed with the Florida Public Service Commission (“FPSC” or the “Commission”) in the above referenced docket: (1) portions of DEF’s Response to Request 1a; and (2) portions of DEF’s Response to Request 1c.

Portions of DEF’s Response to Request 1a contain proprietary and confidential financial business information, the disclosure of which would impair DEF’s competitive business interests and violate DEF’s confidentiality agreements with third parties. Documents responsive to Request 1c contain confidential business information relating to DEF’s procurement of legal services. The disclosure of this information to the public would adversely impact DEF’s competitive business interests and it would impair the competitive business of the provider of the information. Accordingly, portions of DEF’s Response to Staff’s First Request for Production of Documents meet the definition of proprietary confidential business information per section 366.093(3), Florida Statutes.

In support of this Request, DEF states as follows:

The Confidentiality of the Documents at Issue

Section 366.093(1), Florida Statutes (F.S.), 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), F.S. 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), F.S. 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), F.S. 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.

Portions of DEF’s Response to Staff’s First Request for Production of Documents should be afforded confidential classification for the reasons set forth in the Affidavit of Mr. Christopher Fallon filed in support of DEF’s Request, and for the following reasons.

DEF Response to Staff Request 1a

As listed above, the responsive documents are previously filed confidential exhibits to the testimony of Mr. Thomas G. Foster filed in the respective Nuclear Cost Recovery Dockets between the years 2014 and 2017. The Commission has granted confidentiality of this information in Mr. Foster’s exhibits filed in 2014, 2015 and 2016. Confidentiality of this information is pending in Docket 170009-EI. The previously filed exhibits contain confidential

and sensitive contractual information and cost numbers regarding the Levy Nuclear Project (“LNP”), the disclosure of which would impair DEF’s competitive business interests, and would further be a violation of the confidentiality provisions in the EPC Agreement. See Affidavit of Christopher M. Fallon at ¶¶ 4-5.

DEF Response to Staff Request 1c

Documents responsive to Request 1c contain confidential business information relating to DEF’s procurement of legal services. Specifically, the legal invoices produced concern DEF’s litigation with Westinghouse and contain confidential contractual pricing arrangements between DEF and outside counsel that would adversely impact DEF’s competitive business interests and the ability to negotiate favorable legal contracts if disclosed to the public. See Fallon Affidavit, ¶ 6.

This information also qualifies as “information relating to competitive interests, the disclosure of which would impair the competitive business of the provider of the information,” and as proprietary confidential business information under subsection 366.093(3)(e), Fla. Stat. DEF must be able to assure law firms retained to represent DEF that sensitive hourly rates and other business information will be kept confidential. See Affidavit of Fallon, ¶ 6. Indeed, the contract with outside counsel providing the legal invoices at issue contains confidentiality provisions that prohibit the disclosure of the terms of the contract to third parties. Id.

If such information was disclosed to DEF's competitors or to other law firms, DEF's efforts to secure competitive legal contracts and service options that provide economic value to both the Company and its customers in the future could be compromised by these third parties changing their offers or negotiating strategies. Id. at ¶¶ 6. Without DEF's measures to

maintain the confidentiality of sensitive terms in contracts between DEF and law firms, the Company's efforts to obtain competitive legal services would be undermined. Id.

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 Fallon, ¶ 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 Fallon, ¶ 7. 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.

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 Fourth Request for Confidential Classification be granted.

Respectfully submitted,

/s/ Dianne M. Triplett

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Telephone: (727) 820-4692

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 mail this 15th day of June, 2017.

/s/ Dianne M. Triplett

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Exhibit A

CONFIDENTIAL
FILED UNDER SEPARATE COVER
ON MAY 31, 2017

Exhibit B

REDACTED

**LEVY COUNTY NUCLEAR 1 & 2
True-Up Actual Filing: Contracts Executed**

COMPANY: Duke Energy Florida	EXPLANATION: Provide a list of contracts executed in excess of \$1 million including, a description of the work, the dollar value and term of the contract, the method of vendor selection, the identity and affiliation of the vendor, and current status of the contract.	REDACTED Appendix E Witness: C. Fallon Docket No. 150009-EI Duke Energy Florida Exhibit No. ____ (TGF - 1) For Year Ended 12/31/2014
DOCKET NO.: 150009-EI		
(A)	(B)	(C)
(D)	(E)	(F)
(G)	(H)	(I)
(J)	(K)	

Line No.	Contract No.	Status of Contract	Term of Contract	Original Amount	Actual Expended as of Prior Year End (2013)	Actual Expended in 2014	Estimate of Final Contract Amount	Name of Contractor	Affiliation of Vendor	Method of Selection	Nature and Scope of Work
1	414310	Terminated: January 28, 2014					Note	Westinghouse Electric Co. LLC.	Direct	Sole Source. Award based on vendor constructing the selected reactor technology.	To design, engineer, supply, equip, construct and install a fully operational two unit AP1000 Facility at the Levy Nuclear Plant Site. Final contract amount includes change orders.
2	N/A	Note 2	Note 2	Note 2			Note	Carlton Fields Jordan Burt	Direct	Note 2	Legal Work – DEF Levy Units 1 & 2

Line 1: Costs or credits associated with terminating the EPC contract and related long lead equipment purchase orders are subject to litigation in federal court and are unknown at this time.

Line 2: Estimate of final contract amount cannot be determined at this time.

LEVY COUNTY NUCLEAR 1 & 2
Actual Filing: Contracts Executed

EXPLANATION: Provide a list of contracts executed in excess of \$1 million including, a description of the work, the dollar value and term of the contract, the method of vendor selection, the identity and affiliation of the vendor, and current status of the contract.

COMPANY: Duke Energy Florida

REDACTED
 Appendix E
 Witness: C. Fallon
 Docket No. 160009-EI
 Duke Energy Florida
 Exhibit: (TGF - 1)

DOCKET NO.:
 160009-EI

For Year Ended: 12/31/2015

(A)	(B)	(C)	(D)	(E)	(F)	(G)	(H)	(I)	(J)	(K)	
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COMPANY: Duke Energy Florida

DOCKET NO.: 170009-EI

REDACTED
 Appendix E
 Witness: C. Fallon
 Docket No. 170009-EI
 Duke Energy Florida
 Exhibit: (TGF - 1)

For Year Ended: 12/31/2016

Line No.	Contract No.	Status of Contract	Term of Contract	Original Amount	Actual Expended as of Prior Year End (2015)	Actual Amount Expended in 2016	Estimate of Final Contract Amount	Name of Contractor	Affiliation of Vendor	Method of Selection	Nature and Scope of Work
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LEVY COUNTY NUCLEAR 1 & 2
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Appendix E

Witness: C. Fallon

Docket No. 140009-EI

Exhibit: (TGF - 2)

COMPANY:

Duke Energy Florida

DOCKET NO.:
140009-EI

For Year Ended: 12/31/2013

(A)	(B)	(C)	(D)	(E)	(F)	(G)	(H)	(I)	(J)	(K)	
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1	N/A	Executed						Purchase Agreement for Rayonier Forest Resources	Indirect (Vertical Integration (buyer) on behalf of Duke Energy)	Purchase based on final results from site down select analysis that determined most suitable site to locate the plant.	Purchase Land for LNP. Final contract amount includes costs to complete title search, recording fees, and documentary stamps; and Final payment in 2014. Sold Approximately 3,000 acres to Duke Energy for siting Levy Nuclear Plant.
2	255934-09 Amendment 1-11	Executed						Joint Venture Team	Direct	Sole Source. Award for Phase III support of the COLA submittal (Reference contract 255934-02)	LNP Phase III (Initial Scope - COLA Revision 6) Incorporate RCC Specialty Test, Foundation Calcs Rev-Contract will be amended as new COLA Phase III work scope identified.
3	414310	Executed (continue partial suspension with schedule shift)						Westinghouse Electric Co. LLC.	Direct	Sole Source. Award based on vendor constructing the selected reactor technology.	To design, engineer, supply, equip, construct and install a fully operational two unit AP1000 Facility at the Levy Nuclear Plant Site. Final contract amount includes change orders.
4	571467 Amendment 1	Completed (Note 1)						O'Steen Brothers	Direct	RFP Process	Provide detailed engineering design, permitting, and construction services for a 3.2mile, 12 ft. wide multi-use paved trail ("Trail") on the Marjorie Harris Carr Cross Florida Greenway ("Greenway"), to be located in Citrus and Levy Counties (Florida).
5	N/A	Completed						NuStart Energy Development LLC	Direct	Membership Agreement in Industry Organization	Preparation of Reference Combined License Applications for Westinghouse and GE Designs.
6	N/A	Note 2	Note 2	Note 2			Note 2	Hopping, Green & Sams	Direct	Note 2	Legal Work - Levy Site Certification
7	N/A	Note 2	Note 2	Note 2			Note 2	Pillsbury Winthrop Shaw Pittman	Direct	Note 2	Legal Work - Levy COLA Work and COLA Contentions
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Note 1: For this particular contract, costs incurred by DEF for the design, permitting, and construction of the Rec Trail were reimbursed from an escrow account administered by the State of Florida (Department of Financial Services, Division of Treasury).

Note 2: The scope, nature, and extent of legal services ultimately required is subject either to events and/or the actions and/or inactions of parties beyond the control of DEF and its legal services providers, and therefore are not amenable to determination at the time of contract execution or estimation in advance of the conclusion of legal services.

LEVY COUNTY NUCLEAR 1 & 2
May 1, 2017 Filing: Contracts Executed

EXPLANATION: Provide a list of contracts executed in excess of \$1 million including, a description of the work, the dollar value and term of the contract, the method of verification, the identity and affiliation of the vendor, and current status of the contract.

COMPANY:
Duke Energy Florida

Appendix E
Witness: C. Fallon
Docket No. 170009-EI
Exhibit: (TGF - 3)

DOCKET NO.:
170009-EI

For Year Ended: 12/31/2017

All contracts have been closed-out.

Costs or credits associated with terminating the EPC contract and related long lead equipment purchase orders are subject to litigation appeal in federal court and are unknown at this time.

Attachments to Staff POD 1c

Bates numbers: DEF 170009-Staff POD 1c-0001 through DEF 170009-
Staff POD 1c-0010

Redacted in their entirety

Exhibit B

REDACTED

(2nd copy)

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COMPANY: Duke Energy Florida

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 Docket No. 160009-EI
 Duke Energy Florida
 Exhibit: (TGF - 1)

DOCKET NO.:
 160009-EI

For Year Ended: 12/31/2015

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DOCKET NO.: 170009-EI

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 Docket No. 170009-EI
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For Year Ended: 12/31/2016

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Duke Energy Florida

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COMPANY:
Duke Energy Florida

Appendix E
Witness: C. Fallon
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Exhibit: (TGF - 3)

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For Year Ended: 12/31/2017

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Attachments to Staff POD 1c

Bates numbers: DEF 170009-Staff POD 1c-0001 through DEF 170009-
Staff POD 1c-0010

Redacted in their entirety

EXHIBIT C**DUKE ENERGY FLORIDA
Confidentiality Justification**

DOCUMENT	PAGE/LINE/ COLUMN	JUSTIFICATION
DEF Response to Staff's First Request for Production of Documents, Question 1a, Bates No. DEF 170009-Staff POD 1a-0001	All information in line 1 of the table, columns C, D, E & F; all information in line 2 of the table, columns E and F	<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>
DEF Response to Staff's First Request for Production of Documents, Question 1a, Bates No. DEF 170009-Staff POD 1a-0002	All information in line 1 of the table, columns C, D, E & F; all information in line 2 of the table, columns E and F	<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>
DEF Response to Staff's First Request for Production of Documents, Question 1a, Bates No. DEF 170009-Staff POD 1a-0003	All information in line 1 of the table, columns C, D, E & F	<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</p>

DOCUMENT	PAGE/LINE/ COLUMN	JUSTIFICATION
		<p>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>
<p>DEF Response to Staff's First Request for Production of Documents, Question 1a, Bates No. DEF 170009-Staff POD 1a-0004</p>	<p>All information in lines 1 through 5 of the table, columns C, D, E, F & G; all information in lines 6-8 of the table, columns E and F</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>
<p>DEF Response to Staff's First Request for Production of Documents, Question 1c, Bates Nos. DEF 170009-Staff POD 1c-0001 through DEF 170009-Staff POD ac-00010</p>	<p>All information on all pages.</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>

Exhibit D

AFFIDAVIT OF:

CHRISTOPHER M. FALLON

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Nuclear Cost Recovery Clause

Docket No. 170009-EI
Submitted for Filing: June __, 2017

**AFFIDAVIT OF CHRISTOPHER M. FALLON IN SUPPORT OF DUKE ENERGY
FLORIDA'S FOURTH REQUEST FOR CONFIDENTIAL CLASSIFICATION**

STATE OF NORTH CAROLINA

COUNTY OF MECKLENBURG

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

1. My name is Christopher M. Fallon. I am employed by Duke Energy Corporation ("Duke Energy") in the capacity of Vice President of Renewable and Commercial portfolio. Until November 2016, I was Duke Energy's Vice President of Nuclear Development, and as such, I was responsible for the Levy Nuclear Power Plant Project ("LNP"). I am over the age of 18 years old and I have been authorized to give this affidavit in the above-styled proceeding on Duke Energy Florida's ("DEF" or the "Company") behalf and in support of DEF's Fourth Request for Confidential Classification ("Request") regarding portions of DEF's Response to Staff's First Request for Production of Documents filed May 31, 2017. The facts attested to in my affidavit are based upon my personal knowledge.

2. DEF is seeking confidential classification of the following materials filed with the Florida Public Service Commission ("FPSC" or the "Commission") in this above referenced docket: (1) portions of DEF's Response to Request 1a; and (2) portions of DEF's Response to Request 1c.

3. Unredacted versions of DEF's Response to Requests 1a and 1c are contained in confidential Exhibit A filed on May 31, 2017 with DEF's Notice of Intent to Request

Confidential Classification and the confidential portions thereof are outlined in DEF's Justification Matrix that is attached to DEF's Request as Exhibit C.

4. DEF is requesting confidential classification of portions of DEF's Response to Staff's First Request for Production of Documents, question 1a, that contain confidential cost numbers and contractual information for the LNP, the disclosure of which would compromise DEF's competitive business interests or violate contractual confidentiality provisions.

5. As stated above in paragraph 4, most of the contracts at issue, and specifically the EPC Agreement, contain confidentiality provisions; therefore, DEF is requesting confidential classification of this information to avoid public disclosure that would violate the confidentiality agreements between DEF and the other parties. DEF has kept confidential and has not publicly disclosed the proprietary contract terms and provisions at issue here.

6. DEF is also requesting confidential classification of the portions of DEF's Response to Staff's First Request for Production of Documents, question 1c, that contains confidential business information relating to DEF's procurement of legal services. DEF must be able to assure law firms retained to represent DEF that sensitive hourly rates and other business information will be kept confidential. DEF's contract for legal services with outside counsel contains confidentiality provisions that prohibit the disclosure of the terms of the contract to third parties. If other law firms are made aware of confidential contractual terms that DEF has with other parties, they may offer DEF less competitive contractual terms in future contractual negotiations.

7. Upon receipt of this confidential information, as with all confidential information, strict procedures are established and followed to maintain the confidentiality of the terms of the documents and information provided therein. Such procedures include, but are not limited to, restricting access to the documents and information to only those persons who require it to assist the Company. At no time since developing or entering the contracts in question has DEF

publicly disclosed the contracts' terms; DEF has treated and continues to treat the information contained in the subject contracts as confidential.

8. This concludes my affidavit.

Further affiant sayeth not.

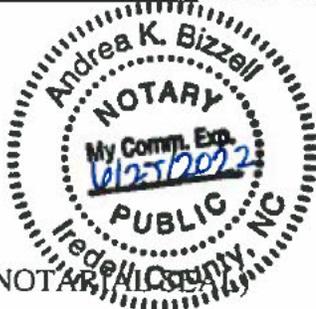
Dated this 14th day of June, 2017.

Christopher M Fallon

(Signature)

Christopher M. Fallon
Former Vice President of Nuclear Development
Duke Energy Corporation
526 South Church Street, EC1
Charlotte, NC 28202

THE FOREGOING INSTRUMENT was sworn to and subscribed before me this 14th day of June, 2017 by Christopher M. Fallon. He is personally known to me, or has produced his _____ driver's license, or his _____ as identification.



Andrea K Bizzell

(Signature)

Andrea K. Bizzell

(Printed Name)

NOTARY PUBLIC, STATE OF North Carolina

June 25, 2022

(Commission Expiration Date)

201217900080

(Serial Number, If Any)