

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for increase in wastewater rates in Monroe County by K W Resort Utilities Corp.

DOCKET NO. 070293-SU
ORDER NO. PSC-07-0921-PCO-SU
ISSUED: November 14, 2007

ORDER GRANTING MOTION FOR TEMPORARY PROTECTIVE ORDER

On November 7, 2007, K W Resort Utilities Corp. (KW Resort or utility) filed its Request for a Temporary Protective Order, pursuant to Rule 25-22.006(6), Florida Administrative Code, covering certain documents sought in discovery by the Office of Public Counsel (OPC). KW Resort states that neither counsel for OPC nor Commission staff objects to the motion.

KW Resort contends that the documents responsive to Request for Production No. 23, Interrogatory No. 16, Request for Production No. 24, and Request for Production No. 39 contain confidential information including "balance sheets, income tax returns, and other IRS filings and the attachments thereto." The utility states that the documents are entitled to protection as they are sensitive business and individual information, normally kept private by the person or entity to whom the information pertains, and information which it is not necessary to make public in order to litigate this proceeding. KW Resort asserts that it is seeking protection of the documents as provided in Rule 25-22.006(6), Florida Administrative Code.

Rule 25-22.006(6), Florida Administrative Code, codifies the Commission's policy protecting confidential information from public disclosure during the discovery process in a manner that is not overly burdensome to both parties. Rule 25-22.006(6)(a), Florida Administrative Code, in pertinent part, states that ". . . any utility or other person may request a protective order protecting proprietary confidential business information from discovery." Additionally, Rule 25-22.006(6)(c), Florida Administrative Code, states:

When a utility or other person agrees to allow Public Counsel to inspect or take possession of utility information for the purpose of determining what information is to be used in a proceeding before the Commission, the utility may request a temporary protective order exempting the information from section 119.07(1), Florida Statutes.

Upon consideration, KW Resort's Request for a Temporary Protective Order of documents responsive to OPC's First Request for Production of Documents Nos. 23, 24, and 39, and Interrogatory No. 16 is granted. This information will be protected from disclosure pursuant to Rule 25-22.006(6)(c), Florida Administrative Code. If it is determined that the information is to be used in this proceeding before the Commission, pursuant to Rule 25-22.006(6)(c), Florida Administrative Code, "the utility must file a specific request for a protective order under paragraph (a)" of Rule 25-22.006(6), Florida Administrative Code.

DOCUMENT NUMBER-DATE

10278 NOV 14 5

FPSC-COMMISSION CLERK

Based on the foregoing, it is

ORDERED by Commissioner Nancy Argenziano, as Prehearing Officer, that the Motion for Temporary Protective Order filed by K W Resort Utilities Corp. is granted.

By ORDER of Commissioner Nancy Argenziano, as Prehearing Officer, this 14th day of November, 2007.



NANCY ARGENZIANO
Commissioner and Prehearing Officer

(S E A L)

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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 25-22.060, 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.