

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for increase in water rates in  
Franklin County by Water Management  
Services, Inc.

DOCKET NO. 110200-WU  
ORDER NO. PSC-13-0032-PCO-WU  
ISSUED: January 15, 2013

ORDER DENYING WATER MANAGEMENT SERVICES, INC.'S  
MOTION FOR PROTECTIVE ORDER

On December 19, 2012, pursuant to section 367.156, Florida Statutes (F.S.), and Rule 25-22.006(6)(c), Florida Administrative Code (F.A.C.), Water Management Services, Inc. (WMSI) filed a Motion for Protective Order to exempt from Section 119.07(1), F.S., certain confidential information included in WMSI's responses to discovery requests propounded by the Office of Public Counsel (OPC). On December 21, 2012, OPC filed its response to WMSI's motion.

Motion for Protective Order

WMSI contends that in its responses to OPC's requests for discovery, several documents were produced which contain proprietary business information. WMSI also alleges that OPC now proposes to use the identified documents at the hearing in this cause and they are attached as exhibits to the direct testimony of OPC witness Helmut Schultz.<sup>1</sup> Specifically, the documents for which WMSI seeks confidential information are Exhibit HWS-8 (Brown Management Group Financial Statements), Exhibit HWS-18 (WMSI financial statements), and Exhibit HWS-21 (portion of WMSI General Ledger). WMSI further alleges that these documents are intended to and have been treated as confidential by WMSI. WMSI further states that the General Ledger discloses entities that WMSI does business with and amounts paid, the disclosure of which would affect WMSI's competitive interests in dealing with vendors and result in higher rates to customers.

OPC's Response

OPC's contends that the documents that are the subject of WMSI's motion are audit workpapers to audits filed in Docket Nos. 100104-WU and 110200-WU. OPC contends that WMSI failed to treat these documents as confidential as WMSI did not seek confidential treatment of the audit workpapers within 21 days of the Audit, as required by Rule 25-22.106(3)(a)2, F.A.C., and thus, the documents have been published.

<sup>1</sup> OPC filed the aforementioned exhibits to Witness Schultz' testimony as confidential and in redacted format following procedures for filing confidential information.

DOCUMENT NUMBER-DATE

00303 JAN 15 2013

FPSC-COMMISSION CLERK

Analysis & Ruling

Rule 25-22.006(6), F.A.C., cited by WMSI, codifies the Commission's policy regarding the protection of 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)(c), F.A.C., in pertinent part, 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), F.S. If the information is to be used in a proceeding before the Commission, then the utility must file a specific request for a protective order under paragraph (a) above.

The documents in question are identified as documents produced by WMSI in response to certain staff audit requests. Confidentiality of audit materials is addressed in Rule 25-22.006(6)(a)2., F.A.C., which states:

In the case of material obtained by the Commission's auditors, the utility shall indicate on the document request Form PSC/APA 6 (2/95) whether the information is believed by the utility to be confidential. To maintain continued confidential handling of the material, the utility must, within 21 days after the audit exit conference or, if waived, the date the audit exit conference would have taken place, file a request for confidential classification with the Office of Commission Clerk. Absent good cause shown, failure to file such a request within 21 days shall constitute a waiver of confidentiality.

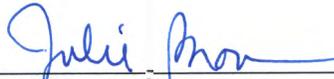
WMSI failed to treat the documents described in its motion as confidential. At the time that audit staff sent the document requests and the completed audits to the utility, WMSI was advised in writing to seek confidential treatment for the documents for which it claimed confidentiality. A review of the audit workpapers obtained pursuant to the audits conducted in Docket Nos. 100104-WU and 110200-WU reveals that WMSI did not request confidential treatment for these document. Specifically, the documents for which confidentiality is sought are part of the work papers in the respective audits and have been published. The only document for which WMSI requested confidentiality was the general ledger. This request was made at the time audit staff requested the general ledger in Docket No. 110200-WU. However, WMSI did not follow with a request for confidential treatment, within 21 days, as required by Rule 25-22.006(6)(a)2., F.A.C. Further, WMSI did not request confidential treatment for the general ledger in Docket 100104-WU, so the document was published in the audit workpapers at that time.

Upon consideration, WMSI's Motion for Protective Order fails to make sufficient assertions that the material should be protected from disclosure. The documents have been published as WMSI did not file the required request for confidential treatment of the documents in either audit and thus, waived confidentiality of the documents involved.

Based on the foregoing, it is

ORDERED by Commissioner Julie I. Brown, as Prehearing Officer, that the Motion for Protective Order filed by Water Management Services, Inc. is denied, as set forth herein.

By ORDER of Commissioner Julie I. Brown, as Prehearing Officer, this 15<sup>th</sup> day of January, 2013.



JULIE I. BROWN

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.

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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-

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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.