

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-13-0033-PCO-WU  
ISSUED: January 15, 2013

ORDER GRANTING IN PART AND DENYING IN PART  
WATER MANAGEMENT SERVICES, INC.'S  
MOTION FOR TEMPORARY PROTECTIVE ORDER

On October 25, 2012, pursuant to Section 366.093, 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 Temporary Protective Order to exempt from Section 119.07(1), F.S., certain confidential information included in WMSI's response to the Office of Public Counsel's (OPC) First Request for Production of Documents, Nos. 2, 3, 4, 5, 6, 14, 16, 17, 18, 27, 28, 34, and 35. On November 1, 2012, OPC filed its response to WMSI's Motion.

Motion for Temporary Protective Order

WMSI contends that its response to OPC's aforementioned discovery request contains salary information as well as corporate documents of a non-public nature and tax returns which are considered proprietary business information by the utility, the disclosure of which could harm WMSI's competitive business interests. Specifically, WMSI contends that such information, if made available to the public, could place WMSI at a competitive disadvantage with respect to the other companies. Further, WMSI asserts that if its competitors possessed WMSI's confidential information they would be able to adjust their behavior in the market place causing disparities between WMSI's budgeted financial plans and the actual costs that WMSI would encounter in the market place. Accordingly, WMSI submits that the information is exempt pursuant to Section 367.156(2), F.S. WMSI also asserts that this Commission has maintained that salary information is proprietary business information pursuant to the ruling in Florida Power and Light v. Public Service Commission, 31 So. 3d 860 (Fla. 1<sup>st</sup> DCA 2010).

OPC's Response

OPC generally asserts that WMSI has failed to show that the documents for which it seeks a temporary protective order are in fact proprietary confidential business information as defined by Section 367.156(3), F.S. More specifically, OPC asserts that the documents produced for Production Response No. 2 have previously been provided to the Commission as public documents, thereby waiving the right to claim confidential treatment at this time. Furthermore, OPC asserts that WMSI has failed to demonstrate that the documents produced for Document Nos. 3, 4, 5, 14, 16, 17, 27, 28, 34, and 35 constitute proprietary confidential business information.

DOCUMENT NUMBER-DATE

00304 JAN 15 2013

FPSC-COMMISSION CLERK

Analysis & Ruling

Rule 25-22.006(6), F.A.C., 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.

Upon consideration, WMSI's Motion for Temporary Protective Order of documents responsive to OPC's First Request for Production of Documents, Nos. 2, 3, 4, 5, 6, 14, 16, 17, 18, 27, 28, 34, and 35 is granted in part and denied in part. For Document Nos. 3, 16, and 27, WMSI has made sufficient assertions that the material should be protected from disclosure pursuant to Rule 25-22.006(6)(c), F.A.C. Accordingly, this information will be protected from disclosure pursuant to Rule 25-22.006(6), F.A.C. With regard to the documents produced for Production Response Nos. 2, 4, 5, 6, 14, 17, 18, 28, 34, and 35, the data in question has already been provided without a timely request for confidentiality and has become a matter of public record. In addition, the data related to the articles of incorporation and annual reports are available on the Florida Department of State's website. Therefore, granting confidential treatment to Document Nos. 2, 4, 5, 6, 14, 17, 18, 28, 34, and 35 is not consistent with Section 366.093, F.S.

Based on the foregoing, it is

ORDERED that the Motion for Temporary Protective Order filed by Water Management Services, Inc. is granted in part and denied in part, 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  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, Florida 32399  
(850) 413-6770  
www.floridapsc.com

Copies furnished: A copy of this document is provided to the parties of record at the time of issuance and, if applicable, interested persons.

MTL

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 25-22.0376, 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.