

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for staff-assisted rate case in
Polk County by CHC VII, Ltd.

DOCKET NO. 130210-WS
ORDER NO. PSC-14-0051-CFO-WS
ISSUED: January 24, 2014

ORDER GRANTING CHC VII, LTD.'S
REQUEST FOR CONFIDENTIAL CLASSIFICATION
(DOCUMENT NO. 06877-13)
(X-REF. 07039-13)

On November 12, 2013, pursuant to Section 367.156, Florida Statutes (F.S.) and Rule 25-22.006, Florida Administrative Code (F.A.C.), CHC VII, Ltd. (CHC VII) filed a request for confidential classification (Request) of "certain materials provided to the Florida Public Service Commission" (Commission) in connection with CHC VII's responses to Staff's Audit (Audit Control No. 13-252-2-2). CHC VII asserts that the confidential information in the documents is intended to be proprietary confidential business information, is treated as proprietary, and has not been publicly disclosed. CHC VII requests that the Commission grant confidential classification for the documents for a period of 18 months from the date of the issuance of this Order, pursuant to Section 367.156(4), F.S.

Request for Confidential Classification

Section 367.156(1), Florida Statutes, 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 Section 119.07(1) [the Public Records Act]." Pursuant to Section 367.156(3), F.S., proprietary confidential business information includes information that is intended to be and is treated by the company as private, in that disclosure of the information would cause harm to the company's ratepayers or business operations, and has not been voluntarily disclosed to the public. Section 367.156(3)(d) and (e) provide that proprietary confidential business information includes, but is not limited to, "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" and "information relating to competitive interests, the disclosure of which would impair the competitive business of the provider of the information."

CHC VII contends that the information, described with specific justification in Attachment A, is information of its parent corporation and is "intended to be and [is] treated by the Utility and its parent as private and confidential and has not been disclosed externally and has been strictly controlled internally." The information is generally described as employee compensation information. CHC VII avers that disclosure of the information would adversely affect or impair CHC VII's ability to negotiate contracts to the benefit of its customers, and subject CHC VII to potential litigation over the wrongful disclosure of private information.

Based on the foregoing, CHC VII asserts that the information is entitled to confidential classification pursuant to Section 367.156(3)(d)-(e), F.S.

Time Period for Confidential Classification

According to Section 367.156(4), F.S., confidential classification may only extend for 18 months from the issuance of an Order granting confidential classification unless “the Commission finds, for good cause, that the protection from disclosure shall be for a specified longer period.” CHC VII has not requested a period longer than the 18 months.

Ruling

Upon review, I find that the information identified in Document No. 06877-13 (x-ref. 07039-13), as described in Attachment A, is treated by CHC VII as private, has not otherwise been disclosed, and is (a) employment contractual data, the disclosure of which would impair the efforts of the Company to contract for goods or services on favorable terms, or (b) competitive interests, the disclosure of which would impair the competitive business of the provider of the information. I find that disclosure of the identified information would cause harm to CHC VII’s ratepayers and/or to its business operations. Thus, the information contained in Document No. 06877-13 (x-ref. 07039-13) shall be granted confidential classification pursuant to Section 367.156(3), F.S.

Pursuant to Section 367.167(4), F.S., the information for which confidential classification is granted herein shall remain protected from disclosure for a period of 18 months from the date of issuance of this Order. At the conclusion of the 18-month period, the confidential information will no longer be exempt from Section 119.07(1), F.S., unless CHC VII or another affected person shows, and the Commission finds, that the records continue to contain proprietary confidential business information.

Based on the foregoing, it is

ORDERED by Commissioner Lisa Polak Edgar, as Prehearing Officer, that CHC VII, Ltd.’s Request for Confidential Classification of Document No. 06877-13 (x-ref. 07039-13), as detailed in Attachment A, is granted. It is further

ORDERED that the information in Document No. 06877-13 (x-ref. 07039-13) for which confidential classification has been granted shall remain protected from disclosure for a period of 18 months from the date of issuance of this Order. At the conclusion of the 18-month period, the confidential information will no longer be exempt from Section 119.07(1), F.S., unless CHC VII, Ltd. or another affected person shows, and the Commission finds, that the records continue to contain proprietary confidential business information. It is further

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ORDERED that this Order shall be the only notification by the Commission to the parties of the date of declassification of the materials discussed herein.

By ORDER of Commissioner Lisa Polak Edgar, as Prehearing Officer, this 24th day of January, 2014.


LISA POLAK EDGAR
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.

Any party adversely affected by the Commission's final action in this matter may request:

- 1) reconsideration of the decision by filing a motion for reconsideration with the Office of Commission Clerk, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, within fifteen (15) days of the issuance of this order in the form prescribed by Rule 25-22.060, 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 and/or wastewater utility by filing a notice of appeal with the Office of Commission Clerk, and filing a copy of the notice of appeal and the filing fee with the appropriate court. This filing must be completed within thirty (30) days after the issuance of this order, pursuant to Rule 9.110, Florida Rules of Appellate Procedure. The notice of appeal must be in the form specified in Rule 9.900(a), Florida Rules of Appellate Procedure.

Exhibit "A"

JUSTIFICATION MATRIX

Location (Document name and location of information)	Justification
<p>Salaries:</p> <p><u>Workpaper 43-9, 7/26, 8/26, 11/26 & 12/26</u> All of columns titled "Check Gross Amt", "Mgmt Fee", "Ben Cost By ", "PR+Ben Cost", "PC PR+Benefit Cost" and 401k.</p> <p><u>Workpaper 43-9, 13/26 & 14/26</u> All of columns titled "Gross Earnings", "ER Soc Sec", "ER Medica FUTA", "ER SUJ", Expense Total", and "Total Cost"</p> <p><u>Workpaper 43-9, 2/26</u> Under categories Park Managers and Maintenance Staff – all amounts under columns titled "Annual Salary", "Total", Water" and "Sewer" Under category Utilities Employees, all amounts under the column titled "Jerry Coryelle", "Steve Marquart" and "Total"</p> <p><u>Workpaper 43-9, 3/26</u> All salary amounts for Jason Wright and Brian Altman and the allocation amounts of Mr. Altman's salary</p> <p><u>Workpaper 43-9, 10/26</u> All amounts (not percentages) under all columns</p> <p><u>Workpaper 43-9, 9/26</u> All amounts under all columns</p>	<p>§367.156(3)(d) Disclosure of compensation data, tax data, benefits data, overtime data and salary increase data would impair the ability of the Utility to contract for employees on favorable terms.</p> <p>§367.156(3)(e) Disclosure of the compensation data would impair the Utility's competitive interests as described in <u>Florida Power & Light Company et al. v. Public Service Commission</u>, 35 Fla. L. Weekly d516 (Fla. 1st DCA 2010). The Utility keeps this information strictly confidential to prevent other utilities from stealing their employees and to prevent lowered morale and infighting among employees who have the same position but varying wages.</p> <p>Article I, Section 23 of the Florida Constitution. Disclosure of the information would invade the privacy rights of the employee.</p>