

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Analysis of Utilities, Inc.'s financial
accounting and customer service computer
system.

DOCKET NO. 120161-WS
ORDER NO. PSC-14-0205-PCO-WS
ISSUED: May 5, 2014

ORDER GRANTING UTILITIES, INC.'S MOTION FOR PROTECTIVE ORDER FOR
CERTAIN INFORMATION CONTAINED IN DOCUMENT NO. 01926-14

On April 24, 2014, pursuant to Section 367.156(2), Florida Statutes (F.S.), and Rule 25-22.006(6), Florida Administrative Code (F.A.C.), Utilities, Inc. (UI or Utility) filed a Motion for Protective Order of a document contained in its response to Florida Public Commission Staff's (Staff) Second Set of Interrogatories, No. 5a (Document No. 01926-14).

Motion for Protective Order

The Utility requests that all of the information provided in response to Staff's Interrogatory No. 5a from which an annual salary can be determined be classified as proprietary confidential business information pursuant to Section 367.156(2), F.S., and Rule 25-22.006, F.A.C. The Utility contends that employee salary information has been determined to be proprietary confidential business information and cites Florida Power & Light Company v. Public Service Commission, 31 So. 3d 860 (Fla. 1st DCA 2010), along with the governing statutes and rules.

Ruling

UI seeks protection of the documents as provided in Section 367.156(2), F.S., and Rule 25-22.006(6), F.A.C., while the material is in the possession of the Office of Public Counsel (OPC). Section 367.156(2), F.S., directs that all records produced pursuant to a discovery request for which proprietary confidential status is requested shall be treated by any party subject to the public records law as confidential and exempt from Section 119.07(1), F.S. 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)(a), F.A.C., in pertinent part, states:

In any formal proceeding before the Commission, any utility or other person may request a protective order protecting proprietary confidential business information from discovery. Upon a showing by a utility or other person and a finding by the Commission that the material is entitled to protection, the Commission shall enter a protective order limiting discovery in the manner provided for in Rule 1.280, Florida Rules of Civil Procedure.

In addition, Rule 25-22.006(6)(c), F.A.C., states that if a party allows OPC to inspect or take possession of utility information, then that “utility may request a temporary protective order exempting the information from section 119.07(1), F.S.”

The specific portion of the document for which confidential classification is sought appears to be information related to the competitive interests, the disclosure of which would impair the competitive business of the provider of the information. Additionally, employee compensation information falls within the definition of information relating to competitive interests, the disclosure of which would impair the competitive business of the provider of the information, as the court found in Florida Power & Light Company.

Upon consideration of UI’s assertions of the confidential nature of the information contained in Document No. 01926-14, the Utility’s Motion for Protective Order is hereby granted. As a result, this information shall be protected from disclosure pursuant to Rule 25-22.006(6), F.A.C.

Based on the foregoing, it is hereby

ORDERED by Commissioner Julie I. Brown, as Prehearing Officer, that Utilities, Inc.’s Motion for Protective Order of certain information contained within Document No. 01926-14 is granted.

By ORDER of Commissioner Julie I. Brown, as Prehearing Officer, this 5th day of May, 2014.



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.

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.