

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for determination of need for the Orlando/St. Cloud Regional Resiliency Connection 230 kV transmission line project in Orange and Osceola Counties, by Orlando Utilities Commission.

DOCKET NO. 20200107-EM
ORDER NO. PSC-2020-0184-CFO-EM
ISSUED: June 11, 2020

ORDER GRANTING ORLANDO UTILITIES COMMISSION'S REQUEST FOR
CONFIDENTIALITY CLASSIFICATION OF DOCUMENT NOS. 02353-2020, 02652-2020
AND 02872-2020

On May 1, 2020, pursuant to Section 366.093, Florida Statutes (F.S.), and Rule 25-22.006, Florida Administrative Code (F.A.C.), Orlando Utilities Commission (OUC) filed its First Request for Confidential Classification in the above-referenced docket regarding information contained in an exhibit to its Petition and an exhibit prefiled direct testimony (Document No. 0253-2020). On May 19, 2020, OUC filed its Second Request for Confidential Classification and Motion for Temporary Protective Order of portions of its responses to Staff's First Request for Production of Documents (No.1) (Document No. 02652-2020). Then, on June 1, 2020, OUC filed its Third Request for Confidential Classification and Motion for Temporary Protective Order in response to Staff's Interrogatories Nos. 2.a and 6.a-6.c (Document No. 02872-2020).

Requests for Confidential Classification

OUC contends that the information contained in an exhibit to its Petition and an exhibit to prefiled testimony in this docket (Exhibit AS-6), as well as information contained in responses to Staff's First Request for Production of Documents and Staff's Interrogatories Nos. 2.a and 6.a-6.c, constitute proprietary confidential business information entitled to protection under Section 366.093, F.S., and Rule 25-22.006, F.A.C. OUC asserts that it has consistently treated and continues to treat this information as confidential and OUC has not voluntarily disclosed the information to the public.

The information contained in Exhibit A to the Petition consists of the "Orlando/St. Cloud Regional Resiliency Connection - Reliability Assessment and Load Flow Study." The information contained in Exhibit AS-6 to the prefiled direct testimony of Aaron Staley, P.E., consists of unredacted Load Flow Study Results. OUC asserts that the information contained in these exhibits are OUC's proprietary confidential business information, in that they contain or constitute critical energy infrastructure information, as defined in Section 388.113 of the Code of Federal Regulation (18 C.F.R. §388.113). OUC asserts that this type of information has previously been granted confidential classification in Commission Order No. PSC-03-0551-FOF-EI. OUC states that the disclosure of this information to third parties would harm OUC and OUC's ratepayers, and therefore, is protected by Section 366.093(3)(e), F.S.

Regarding its Second Request for Confidential Classification, OUC seeks confidential classification for certain information contained in response to Staff's First Request for Production of Documents (No.1), specifically a report entitled St. Cloud Transmission Reinforcement Study. OUC states that the St. Cloud Transmission Reinforcement Study consists in its entirety of proprietary confidential business information and contains extensive information regarding OUC's transmission security systems and measures and consists of critical energy infrastructure information. OUC states that disclosure of the information would cause harm to OUC's ratepayers and business operation. Accordingly, OUC argues that this information is protected by Section 366.093(3)(e), F.S.

In its Third Request for Confidential Classification, OUC seeks confidential classification of the information contained in portions of its responses to Staff's Interrogatories Nos. 2.a and 6.a-6.c. OUC states that the information consists of detailed cost data regarding transmission line project alternatives and includes specific estimates for specific components of the project. OUC asserts that the information contains competitively sensitive information regarding OUC's projected costs to construct the project, and the disclosure of this information could impair OUC's ability to contract for services and procure material at the lowest cost for OUC and its customers. For that reason, OUC argues that this information is protected under Section 366.093(3)(d), F.S.

Ruling

Section 366.093(1), F.S., provides that records the Florida Public Service Commission (Commission) has found to contain proprietary business information shall be kept confidential and shall be exempt from Chapter 119, F.S. Section 366.093(3), F.S., defines proprietary confidential business information as 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 366.093(3), F.S., provides that proprietary confidential business information includes, but is not limited to:

(d) 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.

(e) Information relating to competitive interests, the disclosure of which would impair the competitive business of the provider of the information.

Upon review, it appears the above-referenced information satisfies the criteria set forth in Section 366.093(3), F.S., for classification as proprietary confidential business information. The information described above and in OUC's requests appear to contain information concerning bids or other contractual data, the disclosure of which would impair the efforts of OUC 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. Specifically, information regarding critical energy infrastructure

and projected costs to construct the transmission line. Thus, the information identified in Document Nos. 0253-2020, 02652-2020, and 02872-2020 shall be granted confidential classification. ^{3 M}

Pursuant to Section 366.093(4), F.S., the information for which confidential classification is granted herein shall remain protected from disclosure for a period of up to 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 OUC or another affected person shows, and the Commission finds, that the records continue to contain proprietary confidential business information.

Temporary Protective Order

For Document Nos. 02652-2020 and 02872-2020, OUC requested a temporary protective order pursuant to Rule 25-22.006(6), F.A.C., to exempt the requested confidential information from disclosure pursuant to Section 119.07(1), F.S., and affirm that any confidential information used in the hearing will be protected in accordance with the Order Establishing Procedure (Order No. PSC-2020-01350-PCO- EM).

OUC's request is that the information be protected for use as evidence at the hearing. This protection is already contemplated under Section 366.093(1), which provides that any records received by the Commission that are shown and found to be proprietary confidential business information shall be kept confidential and shall be exempt from Section 119.07, F.S. Furthermore, Rule 25-22.006(8), F.A.C., states that the Commission may rely upon confidential information during a formal proceeding and that reasonable precautions will be taken to protect its integrity. As Document Nos. 02652-2020 and 02872-2020 were only received by staff and there is no other party in this docket, such as the Office of Public Counsel, it is not necessary to grant a temporary protective order, as the information is already guaranteed confidential treatment by the instant order granting confidentiality. Therefore, OUC's request for a temporary protective order is moot.

Based on the foregoing, it is hereby

ORDERED by Commissioner Art Graham, as Prehearing Officer, that Orlando Utilities Commission's Request for Confidential Classification of Document Nos. 0253-2020, 02652-2020 and 02872-2020 is granted. It is further ^{3 M}

ORDERED that the information in Document Nos. 0253-2020, 02652-2020 and 02872-2020, for which confidential classification has been granted, shall remain protected from disclosure for a period of up to 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 Orlando Utilities Commission or another affected person shows, and the Commission finds, that the records continue to contain proprietary confidential business information. It is further ^{3 M}

ORDERED that Orlando Utilities Commission's Request for Temporary Protective Order is moot as discussed above. It is further

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 Art Graham, as Prehearing Officer, this 11th day of June, 2020.



ART GRAHAM
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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.

GAP

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

ORDER NO. PSC-2020-0184-CFO-EM

DOCKET NO. 20200107-EM

PAGE 5

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.