

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-12-0231-PCO-WU
ISSUED: May 10, 2012

TEMPORARY PROTECTIVE ORDER

On April 27, 2012, pursuant to Section 367.156(2), Florida Statutes (F.S.), and Rule 25-22.006(6), 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 documents included in WMSI's responses to the Office of Public Counsel's (OPC) First Request for Production of Documents, No. 32. This request was filed in Docket No. 110200-WU. No other party filed a response to WMSI's motion, and the time for doing so has expired.

Motion for Temporary Protective Order

WMSI states that the information and documents for which it seeks a Temporary Protective Order are being produced in response to OPC's Request for Production of Document No. 32.¹ WMSI contends that the documents responsive to OPC's Request for Production of Document No. 32 contain salary information which has been determined to be confidential proprietary business information pursuant to the holding in Florida Power & Light Company v. Public Service Commission, 31 So. 3d (Fla 1st DCA 2010), wherein the Court held that the categories listed in Section 366.093(3)(a)-(f), F.S., are not exhaustive, and, thus, a utility's compensation information falls within the definition of proprietary confidential business information in Section 366.093(3), F.S.

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)(a), F.A.C., in pertinent part, states that ". . . any utility or other person may request a protective order protecting proprietary confidential business information from discovery." Additionally, Rule 25-22.006(6)(c), F.A.C., 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), Florida Statutes.

¹ These documents consist of W-2 forms.

DOCUMENT NUMBER - DATE
03003 MAY 10 09
FPSC-COMMISSION CLERK

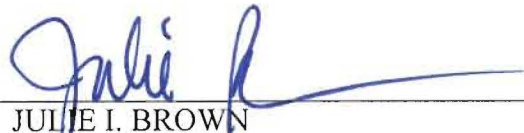
Upon consideration, pending the final determination of the confidential nature of these documents, WMSI's Motion for Temporary Protective Order of documents responsive to OPC's First Request for Production of Documents, No. 32 is granted as set forth herein. WMSI has made sufficient assertions that the material should be protected from disclosure pursuant to Rule 25-22.006(6)(c), F.A.C., while OPC reviews the information to determine what information will be used in this proceeding. Accordingly, this information will be protected from disclosure pursuant to Rule 25-22.006(6), F.A.C.

Based on the foregoing, it is

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

ORDERED that the information and documents provided in response to the Office of Public Counsel's First Request for Production of Documents, No. 32 shall be protected by a Temporary Protective Order, pending the final determination of their use before the Commission, at which time a determination of their confidentiality will be made.

By ORDER of Commissioner Julie I. Brown, as Prehearing Officer, this 10th day of May, 2012.



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.

RRJ

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.