

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for approval of transportation service agreement with Florida Public Utilities Company, by Peninsula Pipeline Company, Inc.

DOCKET NO. 110271-GU
ORDER NO. PSC-12-0117-CFO-GU
ISSUED: March 14, 2012

ORDER GRANTING CONFIDENTIAL CLASSIFICATION TO
PORTIONS OF PENINSULA PIPELINE COMPANY, INC.'S
RESPONSES TO STAFF'S FIRST DATA REQUEST (DOCUMENT NO. 08014-11)

On October 31, 2011, pursuant to Section 366.093, Florida Statutes (F.S.), and Rule 25-22.006, Florida Administrative Code (F.A.C.), Peninsula Pipeline Company, Inc. (Peninsula) filed a Request for Confidential Classification of certain information contained in its responses to staff's first data request (Document No. 08014-11). This request was filed in Docket No. 110271-GU.

Section 366.093(1), F.S., 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]." 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. Sections 366.093(3)(d) and (e) F.S., provide that proprietary confidential business information includes, but is not limited to "[i]nformation 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 "[i]nformation relating to competitive interests, the disclosure of which would impair the competitive business of the provider of the information."

Peninsula contends that the information sought to be confidential falls within these categories and, thus, constitutes proprietary confidential business information entitled to protection under Section 366.093, F.S., and Rule 25-22.006, F.A.C. Peninsula's request pertains to certain rates and terms in its response to Data Request No. 4 containing specific information developed in the context of providing a proposal for service to Florida Public Utilities Company (FPUC) extending service into Nassau County. Specifically, Peninsula seeks confidential classification of Peninsula's Responses to Staff's First Data Request, page 2, and the highlighted information, in the 7 lines of its Response to Data Request No. 4, that constitute a calculation of the construction cost estimate.

Peninsula asserts that the information set forth in the identified sections for which it seeks confidential classification is highly proprietary competitive bid information that falls squarely under Section 366.093(3)(d) and (e), F.S. Peninsula contends that release of the referenced information as a public record would harm Peninsula's competitive business operations and ratepayers by impairing the Company's ability to effectively negotiate for goods and services.

RECORDED NUMBER DATE

01505 MAR 14 2012

FPSC-COMMISSION CLERK

Peninsula asserts that the Company treat the described information as proprietary confidential business information, consistent with the definition of that term in Section 366.093, F.S. Peninsula further asserts that the information has not been made available in the public domain.

Time Period For Confidential Classification

According to Section 366.093(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.” Peninsula has not requested a period longer than the 18 months.

Ruling

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 constitutes “[i]nformation 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 “[i]nformation relating to competitive interests, the disclosure of which would impair the competitive business of the provider of the information.” Thus, the information identified in Document No. 08014-11 shall be granted confidential classification.

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 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 Peninsula 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 Art Graham, as Prehearing Officer, that Peninsula Pipeline Company, Inc.’s Request for Confidential Classification of Document No. 08014-11 is granted. It is further

ORDERED that the information in Document No. 08014-11 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. It is further

ORDERED that this Order will be the only notification by the Commission to the parties concerning the expiration of the confidentiality time period.

By ORDER of Commissioner Art Graham, as Prehearing Officer, this 14th day of March, 2012.



ART GRAHAM
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.

MFB

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.