

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition to determine
need for electrical power plant
in St. Marks, Wakulla County, by
City of Tallahassee.

DOCKET NO. 961512-EM
ORDER NO. PSC-97-0757-CFO-EM
ISSUED: June 26, 1997

3528, 3529, 3530

ORDER DENYING REQUEST FOR CONFIDENTIAL CLASSIFICATION

On April 11, 1997, Enpower, Inc., (Enpower) filed its request for confidential classification of Exhibits 37, 38 and 39, which were admitted into evidence during the April 4, 1997, hearing in this docket. In its request, Enpower states that these exhibits are proprietary business records of Enpower which are the subject of confidential relationships with entities not parties to this docket.

By letter dated April 16, 1997, Enpower was notified that its request for confidential classification was facially deficient in that it: (1) Failed to provide one copy of the material (completely unredacted) highlighting the specific information asserted to be confidential along with edited copies which can be made available for public inspection as required by Rule 25-22.006(4)(a), Florida Administrative Code; (2) Failed to provide line-by-line justification for confidential classification to demonstrate how the information asserted to be confidential qualifies as one of the statutory examples listed in Section 366.093(3), Florida Statutes, or how the person will be harmed by disclosure as required by Rule 25-22.006(4)(c), Florida Administrative Code; and (3) Failed to include an affirmative statement that the material for which confidential classification is sought is intended to be and is treated by the person as private and has not been disclosed as required by Rule 25-22.006(4)(d), Florida Administrative Code.

The April 16, 1997, letter also advised that if a revised filing which meets the requirements of the rule was not received by the Director of Records and Reporting within 15 days from the date of this letter, a recommendation would be made to the Prehearing Officer to deny the request.

Enpower did not submit a revised filing as directed by the April 16, 1997, letter. Moreover, counsel for Enpower represented that Enpower will not file a revised request to correct the

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deficiencies described in the letter. Accordingly, it is found that Enpower's request for confidential treatment of Exhibits 37, 38, and 39, does not meet the requirements of Rule 25-22.006, Florida Administrative Code; therefore, the request is denied.

Based on the foregoing, it is

ORDERED by Commissioner Susan F. Clark, as Prehearing Officer, that Enpower, Inc.'s request for confidential classification of Exhibits 37, 38, and 39, is hereby denied.

By ORDER of Commissioner Susan F. Clark, as Prehearing Officer, this 26th day of June, 1997.


SUSAN F. CLARK
Commissioner and Prehearing Officer

(S E A L)

VDJ

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.

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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, if issued by a Prehearing Officer; (2) reconsideration within 15 days pursuant to Rule 25-22.060, Florida Administrative Code, if issued by the Commission; or (3) 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 Director, Division of Records and Reporting, in the form prescribed by Rule 25-22.060, 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.