

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for increase in wastewater rates in Charlotte County by Utilities, Inc. of Sandalhaven.

DOCKET NO. 150102-SU  
ORDER NO. PSC-16-0045-CFO-SU  
ISSUED: January 27, 2016

ORDER GRANTING UTILITIES, INC. OF SANDALHAVEN'S  
REQUEST FOR CONFIDENTIAL CLASSIFICATION  
(DOCUMENT NO. 06254-15, X-REF. 05818-15)

On October 5, 2015, pursuant to Section 367.156, Florida Statutes (F.S.), and Rule 25-22.006, Florida Administrative Code (F.A.C.), Utilities, Inc. of Sandalhaven (Sandalhaven) filed a Request for Confidential Classification of portions of Commission Staff's Audit Control No. 15-175-1-2 work papers. The original request was amended later in the day on October 5, 2015, to correct the staff audit control number. For the purposes of this Order, the term Request refers to both filings.

Request for Confidential Classification

Sandalhaven contends that designated portions of the information contained in Commission Staff's Audit Control No. 15-175-1-2 work papers, as more specifically described in Exhibit A attached to its original and amended requests, constitute proprietary confidential business information entitled to protection under Section 367.156(3)(a), (b), (d) and (e), F.S., and Rule 25-22.006, F.A.C. Exhibit A attached to Sandalhaven's Request contains a detailed matrix providing justification and support for confidential classification of the information on a line-by-line, column-by-column basis. Sandalhaven asserts that this information is intended to be and is treated by Sandalhaven as private and has not been publicly disclosed.

The information provided in the Commission staff's work papers consists of the financial statements of Sandalhaven's parent company, Utilities, Inc., a private company, the disclosure of which would harm its ability to contract for goods and services on a favorable basis. The salaries of its officers and employees, tax data, benefits data, and overtime information are also contained in the work papers. Sandalhaven contends that disclosure of this information would enable its competitors to lure employees away thereby requiring Sandalhaven to increase the salaries of its remaining employees and/or hire new employees for these positions at a higher salary. Sandalhaven also argues that disclosure would create circumstances under which infighting and employee morale could be negatively affected citing Florida Power & Light Company v. Public Service Commission (FPL), 31 So. 3d 860 (Fla. 1<sup>st</sup> DCA 2010). Finally, Sandalhaven argues that disclosure of its employee's compensation information violates each employee's right to privacy under Article I, Section 23 of the Florida Constitution.

Ruling

Section 367.156(1), F.S., provides that records the Commission has found to contain proprietary business information shall be kept confidential and shall be exempt from Chapter 119, F.S. Section 367.156(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 367.156(3)(d) and (e), F.S., provide 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 information contained in the audit work papers satisfies the criteria set forth in Sections 367.156(3)(d) and (e), F.S., for classification as proprietary confidential business information. The information described above and in Exhibit A, attached to Sandalhaven's Request, constitutes financial information not available to the general public and could, if disclosed, adversely impact Sandalhaven's ability to conduct its business in the most cost-effective manner possible. With regard to the salaries of Sandalhaven's employees and other employee benefit data, consistent with previous Commission decisions,<sup>1</sup> I find that the FPL case is applicable here and, therefore, that this material is confidential. I note that there is no personal privacy right bestowed by Article I, Section 23 of the Florida Constitution. As discussed in Order No. PSC-15-0242-CFO-WU,<sup>2</sup> Article I, Section 23 of the Florida Constitution does not create an exception to Florida's Public Records Act. That being the case, Article I, Section 23 of the Florida Constitution cannot form the basis for granting confidentiality. Finally, none of this material is a trade secret nor does it constitute internal auditing controls or reports of internal auditors. Therefore, this material does not fall within the provisions of Sections 367.156(3)(a) or (b), F.S.

Section 367.156(4), F.S., provides that any finding by the Commission that records contain proprietary confidential business information shall be effective for a period not to exceed 18 months, absent good cause shown. The information identified in Document No. 06254-15, x-ref. 05818-15, shall be granted confidential classification for a period of 18 months from the issuance of this Order.

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<sup>1</sup> Order No. PSC-15-0341-CFO-WU, issued on August 21, 2015, in Docket No. 140174-WU, In re: Application for approval of transfer of Certificate No. 117-W from Crestridge Utility Corporation to Crestridge Utilities, LLC, in Pasco County and Docket No. 140176-WU, In re: Application for approval of transfer of Certificate No. 116-W from Holiday Gardens Utilities, Inc. to Holiday Gardens Utilities, LLC, in Pasco County.

<sup>2</sup> Order No. PSC-15-0242-CFO-WU, issued on June 9, 2015, in Docket No. 140174-WU, In re: Application for approval of transfer of Certificate No. 117-W from Crestridge Utility Corporation to Crestridge Utilities, LLC, in Pasco County.

Based on the foregoing, it is

ORDERED by Lisa Polak Edgar, as Prehearing Officer, that Utilities, Inc. of Sandalhaven's request for confidential treatment of portions of Document No. 06254-15, x-ref. 05818-15, is granted, as set forth herein. It is further

ORDERED that the information contained in Document No. 06254-15, x-ref. 05818-15, 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. 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 Lisa Polak Edgar, as Prehearing Officer, this 27th day of January, 2016.



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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.

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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; 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.