

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for rate
increase in Monroe County by Key
Haven Utility Corporation.

DOCKET NO. 020344-SU
ORDER NO. PSC-04-0136-CFO-SU
ISSUED: February 10, 2004

ORDER GRANTING CONFIDENTIAL TREATMENT
TO DOCUMENT NO. 13971-02[X-REF dn 13464-02]

By request dated December 23, 2002, and pursuant to Rule 25-22.006(3)(a)2., Florida Administrative Code, Key Haven Utility Corporation (Key Haven or utility) seeks confidential classification of certain work papers associated with the Commission's audit of the utility in conjunction with the utility's application for a rate increase. In particular, the utility seeks confidential classification of certain information listed on A. Wayne and Andrea Lujan's W-2 Forms. Although Mr. Lujan is not an employee of Key Haven, he performs services for Key Haven pursuant to a management agreement. Mrs. Lujan is a Key Haven employee. Both of their W-2 Forms include salary information for income sources other than Key Haven. The confidential audit papers are filed under Document No. 13464-02, the confidential information filed with the request was assigned Document No. 13971-02.

Florida law presumes that documents submitted to governmental agencies shall be public records. The only exceptions to this presumption are the specific statutory exemptions provided in the law and exemptions granted by governmental agencies pursuant to the specific terms of a statutory provision. This presumption is based on the concept that government should operate in the "sunshine." It is the utility's burden to demonstrate that the documents fall into one of the statutory examples set out in Section 367.156, Florida Statutes, or to demonstrate that the information is proprietary confidential information, the disclosure of which will cause the utility or its ratepayers harm.

The utility seeks confidential treatment for the redacted information on the W-2 Forms. It is the Commission's policy to afford confidential treatment to Federal income tax returns, which include the accompanying forms required by the Internal Revenue Service such as the W-2 Form. Our policy is consistent with the IRS's treatment of tax returns under 26 U.S.C. Section 6103(a). As

DOCUMENT NUMBER DATE

01884 FEB 10 2004

FPSC-COMMISSION CLERK

such, I find that Key Haven's request shall be granted, and the redacted information is exempt from Section 119.07(1), Florida Statutes, and not subject to disclosure pursuant to Section 367.156(2), Florida Statutes. Therefore, Document No. 13971-02 [X-REF dn 13464-02] shall be accorded confidential treatment. Pursuant to Section 367.156, Florida Statutes, and Rule 25-22.006, Florida Administrative Code, all redacted information, except for the social security numbers, shall remain confidential for a period of eighteen months, at which time any confidentiality granted to the documents specified herein shall expire in the absence of a renewed request for confidential classification. Pursuant to Section 119.0721, Florida Statutes, the Lujans' social security numbers shall remain confidential as long as the W-2 Forms are held by the Commission.

Based on the foregoing, it is

ORDERED by Commissioner Rudolph "Rudy" Bradley, as Prehearing Officer, that pursuant to Sections 367.156 and 119.0721, Florida Statutes, Document No. 13971-02 [X-REF dn 13464-02] shall be accorded confidential treatment. It is further

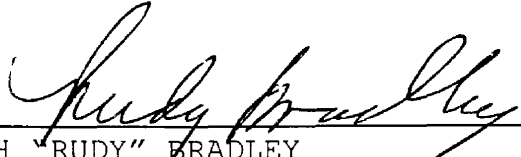
ORDERED that, in accordance with Section 367.156, Florida Statutes, and Rule 25-22.006, Florida Administrative Code, any confidentiality granted to the documents specified herein, except for the social security numbers, shall expire eighteen (18) months from the date of this Order in the absence of a renewed request for confidential classification. It is further

ORDERED that this Order shall be the sole notice of the expiration of confidentiality. It is further

ORDERED that the social security numbers shall remain confidential indefinitely.

ORDER NO. PSC-04-0136-CFO-SU
DOCKET NO. 020344-SU
PAGE 3

By ORDER of Commissioner Rudolph "Rudy" Bradley, as Prehearing Officer, this 10th day of February, 2004.



RUDOLPH "RUDY" BRADLEY
Commissioner and Prehearing Officer

(S E A L)

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, if issued by a Prehearing Officer; 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 Director, Division of the

ORDER NO. PSC-04-0136-CFO-SU

DOCKET NO. 020344-SU

PAGE 4

Commission Clerk and Administrative Services, 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.