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Public Service Commission

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-M-E-M-O-R-A-N-D-U-M-

DATE: February 28, 2008

TO: Martha Brown, Attorney, Office of General Counsel

FROM: Division of Regulatory Compliance and Consumer Affairs (Freeman, Vandiver)
Division of Economic Regulation and Compliance (Maurey)

RE: Docket 060285-SU, Recommendation concerning the request for confidential classification by Utilities, Inc. of Sandalhaven (Sandalhaven) concerning materials filed by the utility, Document 04174-07

On May 23, 2007, Sandalhaven filed its request for confidential classification for portions of the financial statements of its immediate parent company, Utilities, Inc. (Document No. 04174-07). Sandalhaven reports neither Utilities, Inc. nor Hydrostar who owns 100% of Utilities, Inc. stock, are publicly traded.

The utility asserts this information was not needed to process this case. To the contrary, Commission staff requested this information to ensure Sandalhaven and its parent meet the standards necessary to secure interim rates by a corporate undertaking thereby eliminating the need for the utility to supply a letter of credit or surety bond.

On February 18, 2008, after discussions with the staff, Sandalhaven permitted the staff to file a redacted copy of the sensitive information from confidential Document No. 04147-07 in the Clerk's public records (Document No. 01275-08). Filing of a redacted, public copy of the information meets the requirements of Rule 25-22.006(4), Florida Administrative Code (FAC), wherein a utility must file in good form a complete copy of a request for confidential classification.

- CMP** Except for copies of the 3 pages of redacted information placed in the public files by the staff
- COM** with the agreement of the utility, Document No. 04147-07 is currently held in a temporary
- CTR** confidential status by the Office of the Commission Clerk pending the resolution of
- ECR** Sandalhaven's request.
- GCL** Pursuant to Section 119.07, Florida Statutes (F.S.), documents submitted to this Commission are
- OPC** public records. The only exceptions to this law are specific statutory exemptions and exemptions
- RCA** granted by governmental agencies pursuant to the specific items of a statutory provision.
- SCR** Subsections 366.156(3)(d) and (e), F.S., provide the following exemptions.
- SGA**
- SEC**
- OTH**

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DOCUMENT NUMBER-DATE

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Subsection 367.156, F.S., provides: "Proprietary confidential business information means information, regardless of form or characteristics, which is owned or controlled by the person or company, is intended to be and is treated by the person or company as private in that the disclosure of the information would cause harm to the ratepayers or the person's or company's business operations, and has not been disclosed unless disclosed pursuant to a statutory provision, an order of a court or administrative body, or private agreement that provides that the information will not be released to the public. 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 company or its affiliates to contract for goods and services on favorable terms.

(e) Information relating to competitive business interests, the disclosure of which would impair the competitive business of the provider of the information...."

According to Section 367.156, F.S., and Rule 25-22.006, FAC, the utility has the burden of demonstrating that materials qualify for confidential classification. According to Rule 25-22.006, FAC, the utility must meet this burden by demonstrating that the information is proprietary confidential business information, the disclosure of which will cause the utility, the provider of the information or the ratepayer harm.

Staff Analysis of Utility Request

Reading the utility request reveals the sensitive material consists of:

Portions of the Audited Financial Statements of Utilities, Inc. and Subsidiary Companies,
Specifically: Portions of the Notes to the Financial Statements, Pages 5, 6, and 7

The utility asserts releasing information concerning the amount at which the utility would be willing to pay to purchase a utility system or the amount the utility would accept to sell a utility system would harm the competitive business of the utility and would impair the ability of the utility to favorably negotiate for goods and services.

Section 367.156(3)(d), F.S., provides that the Commission may grant a confidential classification to sensitive materials if release of that information would impair the ability of the utility or its affiliates to favorably contract. Section 367.156(3)(e), F.S., provides that the Commission may grant a confidential classification if release of the information would harm the competitive business of the provider of the information.

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We have read the utility's filing and agree that the release of the identified sensitive information would cause harm to contracting ability and the competitive business of the utility.

At issue here is information about the sale and purchase prices of utility systems by Utilities Inc. Staff notes that there are two instances when the sale or purchase price of a utility system is present in public records:

- If Utilities, Inc. sold a utility system to a Florida County or Municipality. The record of that sale to the County or Municipality would be public record.
- If Utilities, Inc. bought or sold a utility system through the "purchase of assets" method, then the sale of the utility including the sales price becomes reflected on the books of the acquiring utility and the information about the sale of the utility becomes public.

Staff's investigation reveals that for the 2005-2006 financial statement years, Utilities, Inc. reports purchases and sales of utility systems were by the "acquisition of stock" method and no sales were made to Florida Counties or Municipalities.

Therefore, because neither a Florida County or Municipality utility system sale is reported, and because no "purchase of asset" utility system sales are reported, all sale and purchase prices affecting Utilities, Inc. remain private. Thus, staff recommends that the sensitive information identified by Sandalhaven concerning the purchase and sale prices of utility systems affecting its parent Utilities, Inc. should be granted a confidential classification.

Information Held as Confidential

To qualify as proprietary confidential business information, the material must also be held as private and not released to the public. The utility asserts this information is held as confidential.

Duration of the Confidential Classification Period

The utility has not specified how long any confidential classification should last.

According to the provisions of subsection 367.156(4), F.S., absent good cause shown, confidential classification is limited to 18 months. Without cause shown for a longer period, and for material recommended for confidential treatment, the classification period should be set as 18 months. As deemed necessary, the utility may request an extension of the confidential classification before the period tolls.

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Summary Staff Recommendation

As discussed above, we recommend that material concerning the price at which the utility would purchase or sell a utility system qualifies for a confidential classification for an 18 month period because the information is sensitive contractual information as well as sensitive competitive business information.

A detailed recommendation by page and line follows:

Detailed Recommendations

Description	Page(s)	Line(s)	Recommend 18 Months Classification	Type of Information Classified Confidential
Document 04174-07				
Audited Financial Statements	5	14,15	Grant	Sensitive Contractual and Competitive Business Information
Audited Financial Statements	6	17,18,20	Grant	Sensitive Contractual and Competitive Business Information
Audited Financial Statements	7	42,43, 45,46	Grant	Sensitive Contractual and Competitive Business Information

A temporary copy of this recommendation is held at file:

I:04174-07 Utilities Inc of Sandalhaven raf.doc

CC: Office of Commission Clerk (Cole, Lockard)