

Ruth Nettles

090392-WS

From: Michele Parks [michele@RSBattorneys.com]
Sent: Monday, March 15, 2010 3:32 PM
To: Filings@psc.state.fl.us
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Subject: Docket No.: 090392-WS/Utilities, Inc. of Pennbrooke
Attachments: Request for Confidential Classification (Pennbrooke).pdf

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- b. Docket No.: 090392-WS; Application of Utilities, Inc. of Pennbrooke for an increase in Water and Wastewater Rates in Lake County, Florida
- c. Utilities, Inc. of Pennbrooke
- d. 4 pages
- e. Motion for Protective Order and Request for Confidential Classification

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FPSC-COMMISSION CLERK

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application of
UTILITIES, INC. OF PENNBROOKE
for an increase in water and wastewater
rates in Lake County, Florida

Docket No. 090392-WS

**UTILITIES, INC. OF PENNBROOKE'S MOTION FOR PROTECTIVE ORDER
AND REQUEST FOR CONFIDENTIAL CLASSIFICATION**

UTILITIES, INC. OF PENNBROOKE (the "Utility"), by and through its undersigned counsel, files this Motion for Protective Order and Request for Confidential Classification in relation to documents submitted in connection with the Utility's Response to Staff's Third Data Request filed in the above-captioned proceeding and with the Utility's responses to Staff's Audit Requests in connection with Audit Control No. 09-281-4-2.

1. Under Section 367.156(2), Florida Statutes, this Commission has the authority to classify certain material as proprietary confidential business information. This classification exempts the material from public disclosure under Section 119.07(1), Florida Statutes.

2. The Utility requests the following:

(a) all of its responses to Staff's Third Data Request, Item No. 1 relating to employee compensation information be classified as proprietary confidential business information under Section 367.156(2), Florida Statutes, and Rule 25-22.06, Florida Administrative Code; and

(b) all of its responses and (Workpapers Vol 3 of 3) for Utilities, Inc., and the Utility for the rate case audit (Audit Control No. 09-281-4-2) designated as confidential in this docket be classified as proprietary confidential business information under Section 367.156(2), Florida Statutes, and Rule 25-22.06, Florida Administrative Code.

(c) If this request is granted, then all of the said response to Staff's Third Data Request, Item No. 1 and said workpapers provided to Staff in connection with Audit Control No. 09-281-4-2 will be exempt from Section 119.07(1), Florida Statutes.

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FPSC-COMMISSION CLERK

3. The information produced in response to Staff's Third Data Request, Item No. 1 and portions of the Utility's responses to Staff's Audit Requests in connection with Audit Control No. 09-281-4-2 consist of employee's name and title, base salary, overtime, raises, and total compensation. It should be classified as proprietary confidential business information because its disclosure would impair the Utility's competitive interests, provide other utility companies information to lure employees away (thereby driving up salaries and rates), and create circumstances under which infighting and employee morale could be adversely affected. See Florida Power & Light Company et al. v. Public Service Commission, 35 Fla. L. Weekly d516 (Fla. 1st DCA 2010).

4. Moreover, requiring the disclosure of each employee's compensation information violates each employee's right to privacy under Article I, Section 23 of the Florida Constitution.

5. The Utility requests that the protective order specifically provide that:

(a) Copies of the response to Staff's Third Data Request and responses to Staff's Audit Requests, and any other documents, such as internal memoranda and notes that may be created, that contain any of the information covered by the protective order, be protected from disclosure to any persons other than those specified in the protective order;

(b) The number of copies of the response to Staff's Third Data Request and responses to said Staff's Audit Requests and any other documents, internal memoranda and notes that may be created, that contain any of the information covered by the protective order be limited to five (5);

(c) Only persons within the Commission Staff and the Office of Public Counsel who are working on this matter may view the response to Staff's Third Data Request and responses

to Staff's Audit Requests and any other documents, internal memoranda and notes that may be created, that contain any of the information covered by the protective order; and

(d) Once the protected materials are no longer needed to proceed on this matter, the Commission and Office of Public Counsel Staff who have the original or any copies in their possession will return the original response and all copies to UTILITIES, INC. OF PENNBROOKE via the undersigned counsel.

WHEREFORE, UTILITIES, INC. OF PENNBROOKE, prays for the entry of the protective order that is consistent with this Motion.

Respectfully submitted on this 15th day of
March, 2010 by:

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CHRISTIAN MARCELLI
For the Firm

CERTIFICATE OF SERVICE
DOCKET NO. 090392-WS

I HEREBY CERTIFY that a true and correct copy of the foregoing Motion for Protective Order has been Filed with the PSC Clerk's E-filing system and furnished by U.S. Mail to the following parties this 15th day of March 2010:

Stephen Reilly, Deputy Public Counsel.
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C/o The Florida Legislature
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