

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Investigation into
ratemaking considerations of
gain on sale from sale of
facilities of Florida Water
Services Corporation to Orange
County.

DOCKET NO. 980744-WS
ORDER NO. PSC-98-1489-CFO-WS
ISSUED: November 9, 1998

TEMPORARY PROTECTIVE ORDER

By its Motion for Temporary Protective Order, filed August 13, 1998, Florida Water Services Corporation (FWSC) has requested, pursuant to Rule 25-22.006, Florida Administrative Code, that this Commission issue a temporary protective order for materials and information requested by the Office of Public Counsel (OPC or Citizens). OPC has not responded to FWSC's motion, and the time for doing so has expired. FWSC's request is for temporary confidential treatment of information and documents provided pursuant to the following requests:

Citizens' First Request for Production of Documents

OPC Document Request No. 1 states:

With respect to the sale of the Company's Orange County systems, please provide each document in your possession, custody or control evaluating, analyzing or commenting on sale. This request includes, but is not limited to, all strategic plans, analyses undertaken, and other documents concerning your plans or strategies for selling the Orange County systems.

OPC Document Request No. 3 states:

With respect to the sale of the Company's Orange County systems, please provide all correspondence between any employees of the Company and any consultants to the Company.

DOCUMENT NUMBER-DATE

12573 NOV-98

FPSC-RECORDS/REPORTING

OPC Document Request No. 5 states:

With respect to the sale of the Orange County systems, provide all documents which evaluated, examined, or commented on the terms of the sale.

FWSC asserts that the materials and information provided in response to the above requests for production are covered by the definition of "proprietary confidential business information" under Section 367.156, Florida Statutes, and are information which this Commission has found to be confidential in the past. FWSC intends to seek permanent confidential treatment if it is determined that the information is to be used in this docket. FWSC requests that the materials and information described above and provided in response to OPC's request for production be granted the protection of a Temporary Protective Order, which will protect the materials and information from disclosure until OPC completes its review. FWSC anticipates that OPC will identify the specific material it intends to use in this proceeding. FWSC then will file a motion for a permanent protective order for confidential treatment of that specific material, pursuant to Rule 25-22.006, Florida Administrative Code.

Based on the foregoing, pursuant to this Commission's authority under Section 367.156, Florida Statutes, and Rule 25-22.006, Florida Administrative Code, FWSC's Motion for a Temporary Protective Order is hereby granted. Accordingly, the documents and information described above and received by OPC from FWSC shall be kept confidential and exempt from public disclosure under Section 119.07(1), Florida Statutes, for the duration of this Temporary Protective Order.

FWSC shall, in accordance with the provisions of Rule 25-22.006, apply for confidential treatment of those portions of the materials and information which are, in its opinion, entitled to such treatment within fourteen days of notification that OPC has identified the documents or information it will use at the final hearing. This Temporary Protective Order shall remain in effect no longer than ninety days, or fourteen days after OPC determines which information it intends to use and notifies FWSC (if that is shorter), by which time OPC shall return to FWSC all materials and information it does not intend to use in this proceeding. The expiration date of this Order shall be void upon the issuance of an order finding that the

ORDER NO. PSC-98-1489-CFO-WS
DOCKET NO. 980744-WS
PAGE 3

information and materials herein are not proprietary and confidential business information. This Order shall have no effect on the subsequent determination of any request for specified confidential classification of any of these materials and information.

Based on the foregoing, it is

ORDERED by Commissioner Susan F. Clark, as Prehearing Officer, that all documents or information received by the Office of Public Counsel from Florida Water Services Corporation, in response to Public Counsel's Requests for Production Nos. 1, 3 and 5 shall be treated temporarily as proprietary confidential business information within the meaning of Section 367.156, Florida Statutes, and protected from public disclosure as required therein. It is further

ORDERED that once the Office of Public Counsel has notified Florida Water Services Corporation, which of the materials the Office of Public Counsel intends to use in this docket, Florida Water Services Corporation, in accordance with Rule 25-22.006, Florida Administrative Code, shall file within fourteen days a motion for a permanent protective order requesting proprietary confidential treatment of those portions of the materials and information for which it desires confidential treatment. The remaining materials that the Office of Public Counsel does not plan to use in this proceeding shall be returned to Florida Water Services Corporation, in accordance with Rule 25-22.006, Florida Administrative Code. It is further

ORDERED that the Office of Public Counsel shall take measures to preserve the confidentiality of the documents and information protected by this Order. No disclosure of the documents or information protected by this Order shall be made or permitted. It is further

ORDERED that pursuant to Section 367.156, Florida Statutes, and Rule 25-22.006, Florida Administrative Code, any protection granted to the documents and information specified herein shall expire no later than ninety days from the date of issuance of this Order in the absence of a renewed request for protection pursuant to Section 367.156, Florida Statutes. It is further

ORDER NO. PSC-98-1489-CFO-WS
DOCKET NO. 980744-WS
PAGE 4

ORDERED that this Order will be the only notification by the Florida Public Service Commission to the parties concerning the expiration of this Temporary Protective Order.

By ORDER of Commissioner Susan F. Clark, as Prehearing Officer, this 9th day of November, 1998.



SUSAN F. CLARK
Commissioner and Prehearing Officer

(S E A L)

JSB

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; (2) reconsideration within 15 days pursuant to Rule 25-22.060, Florida

ORDER NO. PSC-98-1489-CFO-WS
DOCKET NO. 980744-WS
PAGE 5

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.