

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for approval of merger of Utilities, Inc. and Nuon Acquisition Sub, Inc., an Illinois corporation, and for determination of Commission's jurisdiction of such merger.

DOCKET NO. 010887-WS
ORDER NO. PSC-01-1686-CFO-WS
ISSUED: August 21, 2001

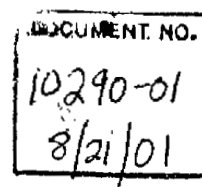
ORDER GRANTING REQUEST FOR CONFIDENTIAL CLASSIFICATION AND PERMANENT PROTECTIVE ORDER (DOCUMENT NO. 07817-01)

On June 25, 2001, Utilities, Inc. (utility) filed an Application for Approval of Merger and Jurisdictional Determination, along with a Request for Confidential Classification. The Request for Confidential Classification involves the Merger Agreement between Utilities, Inc. and Nuon Acquisition Sub, Inc. (Document No. 07817-01).

After review by staff, it was determined that the Request for Confidential Classification did not meet the requirements of Rule 25-22.006(4), Florida Administrative Code, and on July 9, 2001, staff sent a deficiency letter to Utilities, Inc., allowing 15 days for the utility to correct the deficiencies. On July 27, 2001, the utility filed supplemental documents which corrected the deficiencies and brought the Request into compliance with Rule 25-22.006(4), Florida Administrative Code.

Utilities, Inc. asserts that Document No. 07817-01 contains proprietary, confidential business information, as defined in Section 367.156, Florida Statutes, and is therefore entitled to confidential treatment. The specific information asserted to be confidential occurs on page 5, and involves the price-per-share to be paid for Utilities, Inc. by Nuon Acquisition Sub, Inc. No other portions of the document are asserted by Utilities, Inc. to be confidential, nor is Utilities, Inc. requesting confidential treatment for any other documents.

Documents filed with the Commission are generally open to the public pursuant to Chapter 119, Florida Statutes, Florida's "Government in the Sunshine" Law. Section 367.156(1) exempts



certain documents filed with the Commission, however, if they are "shown and are found to contain proprietary business information". Pursuant to Section 367.156(3), Florida Statutes, a utility requesting confidential classification must demonstrate that the information is proprietary confidential business information, and states that:

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.

Utilities, Inc. asserts that the price per share information is intended to be and is considered confidential by the utility, and is being treated as such. The utility also asserts that if the price per share is made public, that information could be used to either increase the cost of the merger or to cause the merger to fail entirely, thus causing harm to the utility's business operations. Upon review, we find the information contained in the above-referenced document page appears to be proprietary, confidential business information, disclosure of which would cause harm to Utilities, Inc.'s business operations, specifically with respect to its ability to complete the merger as agreed upon.

Because the price per share information contained on page five of Document No. 07817-01 is proprietary, confidential business information, pursuant to §367.156(4), Florida Statutes, and Rule 25-22.006, Florida Administrative Code, this information shall remain confidential for a period of 18 months, at which time Utilities, Inc. can renew its request for confidentiality. Furthermore, a Permanent Protective Order is granted and shall remain in effect for a period of 18 months. The requirements of Section 367.156(4) and Rule 25-22.006(8) are satisfied, and all reasonable precautions shall be taken to segregate confidential

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information in the record of any formal proceeding which may take place.

Based on the foregoing, it is

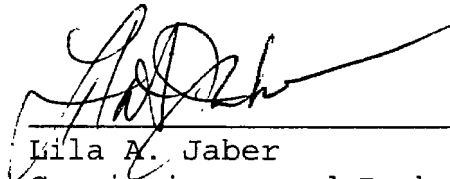
ORDERED by Commissioner Lila A. Jaber, as Prehearing Officer, that the Request for Confidential Classification, for price-per-share information contained on page five of Document No. 07817-01, is hereby granted. It is further

ORDERED that a Permanent Protective Order, for price-per-share information identified on page 5 of Document No. 07817-01, is hereby issued for a period of 18 months from the date of issuance of this Order. It is further

ORDERED that the confidential classification granted to the document specified in this Order shall expire 18 months from the date of issuance of this order in the absence of a renewed request for confidentiality. 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 Lila A. Jaber, as Prehearing Officer, this 21st day of August, 2001.



Lila A. Jaber
Commissioner and Prehearing Officer

(S E A L)

LDH

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 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 the 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.