

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for increase in water and wastewater rates in Seminole County by Sanlando Utilities Corporation. DOCKET NO. 110257-WS
ORDER NO. PSC-12-0096-CFO-WS
ISSUED: March 5, 2012

ORDER GRANTING SANLANDO UTILITIES CORPORATION'S
REQUEST FOR CONFIDENTIAL CLASSIFICATION
(DOCUMENT NO. 00477-12)

By Staff's First Data Request dated December 27, 2011, our staff requested certain information concerning operation and maintenance (O&M) expenses. In its response dated January 24, 2012, Sanlando Utilities Corporation (Sanlando or Utility) noted that O&M expenses, Items Nos. 1-4, and hourly rates for WSC employees in Schedule B-10 regarding compensation information, is intended to be, and is treated by the Utility as private and confidential and has not been disclosed externally and was strictly controlled. Therefore, on that same date, Sanlando filed its Request for Confidential Classification of this information (Document No. 00477-12).

Section 367.156(1), Florida Statutes (F.S.), provides that "any records received by the commission which are shown and found by the commission to be proprietary confidential business information shall be kept confidential and shall be exempt from Section 119.07(1) [the Public Records Act]." Section 367.156(3), F.S., defines proprietary confidential business information as information that is intended to be and is treated by the person or company as private, in that disclosure of the information would cause harm to the person's or company's ratepayers or business operations, and has not been disclosed to the public. Paragraph (e) of Section 367.156(3), F.S., provides that proprietary confidential business information includes, but is not limited to "[i]nformation relating to competitive interests, the disclosure of which would impair the competitive business of the provider of the information."

Sanlando contends that the information contained in its response to staff's data requests, specifically, the 2011 Rate Cases Salary Adjustment and Rate Case Expense document, pages 7-20, of 128 pages, Columns A-E (except Column totals and Column headings), pages 21-34, of 128 pages, Columns F-J (except Column totals and Column headings), and Schedule B-10, Columns (3) and (5), fall within this category and thus constitute proprietary confidential business information entitled to protection under Section 367.156, F.S., and Rule 25-22.006(3), F.A.C. Sanlando states that this information is intended to be and is treated by Sanlando as private and has not been publicly disclosed.

Sanlando claims that the information provided in its response to staff's data request contains compensation data, overtime data, and salary increase data, plus the percentage contributed to 401K plans, which if disclosed would impair the ability of the Utility to contract for employees on favorable terms, and impair the Utility's competitive interests as described in

DOCUMENT NUMBER-DATE

01287 MAR -5 2012

FPSC-COMMISSION CLERK

Florida Power and Light Company v. FPSC, 31 So. 3d 860 (Fla. 1st DCA 2010), and as set out in Sections 367.156(3)(d) and (e), F.S.

Analysis and Ruling

Section 367.031, F.S., requires each utility subject to the jurisdiction of the Commission hold a certificate of authorization to provide water or wastewater service. Section 367.045(1)(b), F.S., requires each utility applying for an initial certificate to “[p]rovide all information required by rule or order of the commission, which information may include a detailed inquiry into the ability of the applicant to provide service” Rule 25-30.033(1)(e), F.A.C., requires an applicant for an original certificate to provide “a statement showing the financial and technical ability of the applicant to provide service,” while paragraphs (1)(r) and (s) require the applicant to provide:

- (r) A detailed financial statement (balance sheet and income statement), certified if available, of the financial condition of the applicant, that shows all assets and liabilities of every kind and character. . . . If available, a statement of the source and application of funds shall also be provided;
- (s) A list of all entities, including affiliates, upon which the applicant is relying to provide funding to the utility, and an explanation of the manner and amount of such funding, which shall include their financial statements and copies of any financial agreements with the utility. . . .

Therefore, in order to be granted an original certificate by this Commission, the applicant must provide detailed financial information

Rule 25-22.006(8)(a) specifically states that “[t]he Commission may rely upon confidential information during a formal proceeding and such information, if otherwise admissible, will be received in evidence. In such event, reasonable precautions will be taken to segregate confidential information in the record and otherwise protect its integrity.” This Commission has extensive experience with, and procedures in place to ensure, that confidential information is available for review by staff, parties to the proceeding, and the Commissioners. These procedures allow all parties to view and use the information in the presentation of their case, including at hearing, while preventing public disclosure of the information.

I conclude the information contained in Document No. 00477-12 satisfies the criteria set forth in Section 367.156(3)(d) and (e), F.S., for classification as proprietary confidential business information. The information constitutes either contractual data or “[i]nformation relating to competitive interests, the disclosure of which would impair the competitive business of the provider of the information.” Thus, the information contained in Document No. 00477-12, specifically set out above, and also listed on Exhibit A, shall be granted confidential classification.

Pursuant to Section 367.156(4), F.S., the information for which confidential classification is granted herein shall remain protected from disclosure for a period of 18 months from the date

of issuance of this Order. At the conclusion of the 18-month period, the confidential information will no longer be exempt from Section 119.07(1), F.S., unless Sanlando or another affected person shows, and the Commission finds, that the records continue to contain proprietary confidential business information.

Based on the foregoing, it is

ORDERED by Chairman Ronald Brisé, as Prehearing Officer, that Sanlando Utilities Corporation's Request for Confidential Classification of information contained within Document No. 00477-12 is granted. It is further

ORDERED that the information in Document No. 00477-12 for which confidential classification has been granted shall remain protected from disclosure for a period of 18 months from the date of issuance of this Order. It is further

ORDERED that this Order shall be the only notification by the Commission to the parties of the date of declassification of the materials discussed herein.

By ORDER of Chairman Ronald A. Brisé, as Presiding Officer, this 5th day of March, 2012.



RONALD A. BRISE
Chairman and Presiding Officer
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399
(850) 413-6770
www.floridapsc.com

Copies furnished: A copy of this document is provided to the parties of record at the time of issuance and, if applicable, interested persons.

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; 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 Office of Commission Clerk, in the form prescribed by Rule 25-22.0376, 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.

JUSTIFICATION MATRIX

<p><u>Location</u> (Document name and location of information)</p>	<p><u>Justification</u> Please note: All information for which the Utility requests confidential treatment has been kept confidential by the Utility, and intends to keep such information confidential.</p>
<p><u>Document:</u> 2011 Rate Cases Salary Adjustment and Rate Case Expense</p> <p><u>Location:</u> pp. 7 - 20 of 128, Columns A - E (except Column totals and Column headings) pp. 21 - 34 of 128, Columns F - J (except Column totals and Column headings) Schedule B-10 - Columns (3) & (5)</p>	<p>§367.156(3)(d) Disclosure of compensation data, overtime data and salary increase data would impair the ability of the Utility to contract for employees on favorable terms.</p> <p>§367.156(3)(e) Disclosure of the compensation data would impair the Utility's competitive interests as described in <u>Florida Power & Light Company et al. v. Public Service Commission</u>, 31 So. 3d 860 (Fla. 1st DCA 2010).. The Utility keeps this information strictly confidential to prevent other utilities from stealing their employees and to prevent lowered morale and infighting among employees who have the same position but varying wages. Disclosure of the percentage contributed to 401k plans would impair the Utility's competitive interests in a similar manner, giving competitors a tool to lure away employees and causing internal strife by exposing the employee's private financial affairs.</p> <p>Article I, Section 23 of the Florida Constitution. Disclosure of the information would invade the privacy rights of the employee.</p>