

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for original certificates for proposed water and wastewater system and request for initial rates and charges in St. Lucie County by Bluefield Utilities, LLC.

DOCKET NO. 090459-WS
ORDER NO. PSC-13-0147-CFO-WS
ISSUED: April 4, 2013

ORDER GRANTING BLUEFIELD UTILITIES, LLC'S
REQUEST FOR CONFIDENTIAL CLASSIFICATION
(DOCUMENT NO. 00692-13)

On February 4, 2013, pursuant to Rule 25-22.006, Florida Administrative Code, Bluefield Utilities, LLC (Bluefield or Utility) filed a request for confidential classification (Request) of certain materials produced by Bluefield in response to a staff request dated January 3, 2013. Bluefield asserts that the confidential information in the documents is intended to be proprietary, is treated as proprietary, and has not been publicly disclosed. Bluefield requests that the Commission grant confidential classification for the documents pursuant to Section 367.156, Florida Statutes.

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. Section 367.156(3), F.S., provides that proprietary business information includes, but is not limited to:

- (a) Trade Secrets.
- (b) Internal auditing controls and reports of internal auditors.
- (c) Security measures, systems, or procedures.
- (d) Information concerning bids or other contractual data, the disclosure of which would impair the efforts of the utility or its affiliates to contract for goods and services on favorable terms.
- (e) Information relating to competitive interests, the disclosure of which would impair the competitive businesses of the provider of the information.
- (f) Employee personnel information unrelated to compensation, duties, qualifications, or responsibilities.

Bluefield contends that the information, described with specific justification in its Request for Confidential Classifications, is intended to be, and is treated as, confidential by Evans Properties, Inc. (Evans), the ultimate parent of Bluefield, and has not been otherwise publicly disclosed. Bluefield contends that the information conforms with the above requirements and is generally described as bids or other contractual data, competitive interests,

DOCUMENT NUMBER DATE

01671 APR-4 2013

FPSC-COMMISSION CLERK

and/or employee personnel information unrelated to compensation, duties, qualifications, or responsibilities. Bluefield argues that disclosure of the information would “impair Bluefield’s ability to protect itself from fraudulent actions, give other market participants a competitive advantage, adversely affect Bluefield’s ability to negotiate contracts to the benefit of its customers, and subject Bluefield to potential litigation over the wrongful disclosure of private information.” Based on the foregoing, the Company asserts that the information is entitled to confidential classification pursuant Section 367.156(3), F.S., and Rule 25-22.006, F.A.C.

Ruling

Upon review, the specific document for which confidential classification is sought appears to consist of statements concerning Evans Properties, Inc., the ultimate parent of Bluefield. Bluefield is requesting that Attachment 1 be granted confidential classification, which would prevent disclosure of the information to the public at large. I find that the information identified in Document No. 00692-13 is treated by the Utility as private, has not otherwise been disclosed, and falls within the statutory definition of “proprietary confidential business 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.” The 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 appropriately view and use the information in the presentation of their case, including at hearing, while preventing public disclosure of the information.

Bluefield requests confidential classification for this information for a period of 18 months. According to Section 366.093(4), F.S., confidential classification may only extend for 18 months from the issuance of an Order granting confidential classification unless “the Commission finds, for good cause, that the protection from disclosure shall be for a specified longer period.”

I therefore conclude the information contained in Document No. 00692-13 satisfies the criteria set forth in Section 367.156(3), F.S., for classification as proprietary confidential business information. Thus, the information contained in Document No. 00692-13, specifically Attachment 1, shall be granted confidential classification.

Based on the foregoing, it is

ORDERED by Chairman Ronald A. Brisé, as Prehearing Officer, that Bluefield Utilities, LLC’s Request for Confidential Classification of information contained within Document No. 00692-13, specifically Attachment 1 in its entirety, is granted. It is further

ORDERED that the information in Document No. 00692-13 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. At the conclusion of the 18-month period, the confidential information will no longer be exempt from Section 119.07(1), F.S., unless Bluefield or another affected person shows, and the Commission finds, that the records continue to contain proprietary confidential business information. 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 4th day of April,
2013.



RONALD A. BRISÉ
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.

JEG

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.