

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Request to opt-out of cost recovery for investor-owned electric utility energy efficiency programs by Wal-Mart Stores East, LP and Sam's East, Inc. and Florida Industrial Power Users Group.

DOCKET NO. 140226-EI
ORDER NO. PSC-15-0280-CFO-EI
ISSUED: July 7, 2015

ORDER GRANTING WAL-MART STORES EAST, LP AND SAM'S EAST, INC.'S
REQUEST FOR CONFIDENTIAL CLASSIFICATION (DOCUMENT NO. 03827-15) (X-REF
DOCUMENT NO. 03277-15)

On June 22, 2015, pursuant to Section 366.093, Florida Statutes (F.S.), and Rule 25-22.006, Florida Administrative Code (F.A.C.), Wal-Mart Stores East, LP and Sam's East, Inc.'s (Wal-Mart) filed a Request for Confidential Classification (Request) of certain information provided in a certain table produced in response to Staff's First Set of Interrogatories (Nos. 1-11), specifically identified as Attachment No. 1 (Document No. 03827-15) (x-ref Document No. 03277-15). This request was filed in Docket No. 140226-EI.

Request for Confidential Classification

Wal-Mart contends that the table provided in response to Staff's discovery contains information of a confidential nature which is proprietary confidential business information within the meaning of Section 366.093(3), Florida Statutes. Wal-Mart contends that this information is intended to be and is treated by Wal-Mart as private and its confidentiality has been maintained. This information includes Wal-Mart's energy usage on a per-store basis, the disclosure of which could be used by Wal-Mart's competitors to Wal-Mart's competitive disadvantage. This information is protected by Section 366.093(3)(e), Florida Statutes.

Ruling

Section 366.093(1), F.S., provides that records the Commission has found to contain proprietary business information shall be kept confidential and shall be exempt from Chapter 119, F.S. Section 366.093(3), F.S., defines proprietary confidential business information as information that is intended to be and is treated by the company as private, in that disclosure of the information would cause harm to the company's ratepayers or business operations, and has not been voluntarily disclosed to the public. Section 366.093(3), F.S., provides that proprietary confidential business information includes, but is not limited to:

- (e) Information relating to competitive interests, the disclosure of which would impair the competitive business of the provider of the information.

Upon review, it appears the above-referenced information satisfies the criteria set forth in Section 366.093(3), F.S., for classification as proprietary confidential business information. The information described above appears to be information concerning competitive energy data and competitive interests, the disclosure of which would impair the competitive business of Wal-Mart. Thus, the information identified in Attachment A, Document No. 03827-15 (x-ref Document No. 03277-15) shall be granted confidential classification.

Pursuant to Section 366.093(4), F.S., the information for which confidential classification is granted herein shall remain protected from disclosure for a period of up to 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 Wal-Mart 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 Commissioner Art Graham, as Prehearing Officer, that Wal-Mart Stores East, LP and Sam's East, Inc.'s Request for Confidential Classification of Document No. 03827-15, (x-ref Document No. 03277-15). It is further

ORDERED that the information in Document No. 03827-15 (x-ref Document No. 03277-15), for which confidential classification has been granted, shall remain protected from disclosure for a period of up to 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 Art Graham, as Prehearing Officer, this 7th day
of July, 2015.



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

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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.