

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for original water and wastewater certificates and approval of initial rates, charges and standard service agreements in Lee County, by CPI Citrus Park Utility TRS, L.L.C.

DOCKET NO. 20190194-WS
ORDER NO. PSC-2020-0155-CFO-WS
ISSUED: May 15, 2020

ORDER GRANTING CPI CITRUS PARK UTILITY TRS, L.L.C.'S REQUEST FOR
CONFIDENTIAL CLASSIFICATION AND MOTION FOR PROTECTIVE ORDER
(DOCUMENT NO. 00395-2020)

On January 17, 2020, CPI Citrus Park Utility TRS, L.L.C. (CPI Citrus) filed a Request for Confidential Classification and Motion for Temporary Protective Order, pursuant to Section 367.156, Florida Statutes (F.S.), and Rule 25-22.006, Florida Administrative Code (F.A.C.), pertaining to certain information provided in response to Item No. 5 of staff's deficiency letter dated November 21, 2019 (Document No. 00395-2020).

Request for Confidential Classification

CPI Citrus contends that certain information provided in response to Item No. 5 of staff's deficiency letter constitutes proprietary and confidential business information entitled to protection under Section 367.156, F.S., and Rule 25-22.006, F.A.C. CPI Citrus asserts that disclosure of the confidential information in the documents is intended to be proprietary, is treated as proprietary, and has not been publicly disclosed.

CPI Citrus contends that the confidential information consists of a letter and attached balance sheet from CPI Citrus's affiliate. CPI Citrus states that the release of such information would harm the affiliate's competitive business operations. Among other things, competitors of the affiliate could use the identified private financial information in deducing the affiliate's strategic business plans. Therefore, CPI Citrus argues that such information is entitled to confidential classification pursuant to Section 367.156(3)(e), F.S.

Ruling

Section 367.156(1), F.S., provides that records the Florida Public Service Commission (Commission) has found to contain proprietary business information shall be kept confidential and shall be exempt from Chapter 119, F.S. Section 367.156(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 367.156(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 367.156(3), F.S., for classification as proprietary confidential business information. The information described above and in CPI Citrus's request appears to contain information relating to competitive interests, the disclosure of which would impair the competitive business of the provider of the information. Thus, the information identified in Document No. 00395-2020 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 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 CPI Citrus or another affected person shows, and the Commission finds, that the records continue to contain proprietary confidential business information.

Motion for Temporary Protective Order

CPI Citrus also seeks protection of the documents as provided in Section 367.156, F.S., and Rule 25-22.006, F.A.C. Section 367.156(2), F.S., directs that all records produced pursuant to a discovery request for which proprietary confidential status is requested shall be treated by any party subject to the public records law as confidential and exempt from Section 119.07(1), F.S., the public records law. Rule 25-22.006(6), F.A.C., codifies the Commission's policy regarding the protection of confidential information from public disclosure during the discovery process in a manner that is not overly burdensome to both parties. Rule 25-22.006(6)(b), F.A.C., states "[t]he Commission's protective orders shall exempt proprietary confidential business information from Section 119.07(1), F.S."

Ruling

Upon consideration of CPI Citrus's assertions of the confidential nature of certain information provided in response to Item No. 5 of staff's deficiency letter, Document No. 00395-2020, CPI Citrus's Motion for Temporary Protective Order is hereby granted. As a result, this information shall be protected from disclosure pursuant to Rule 25-22.006(6), F.A.C.

Based on the foregoing, it is hereby

ORDERED by Commissioner Julie I. Brown as Prehearing Officer, that CPI Citrus Park Utility TRS, L.L.C.'s Request for Confidential Classification of Document No. 00395-2020 is granted. It is further

ORDERED that the information in Document No. 00395-2020, 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 CPI Citrus Park Utility TRS, L.L.C.'s Motion for Temporary Protective Order of Document No. 00395-2020 is granted. 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 Commissioner Julie I. Brown, as Prehearing Officer, this 15th day of May, 2020.



JULIE I. BROWN

Commissioner 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.

KBS

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

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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.