

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Request for Confidential) DOCKET NO. 950318-WS
Classification of Certain) ORDER NO. PSC-95-0503-CFO-WS
Material Requested as Part of) ISSUED: April 24, 1995
the Florida Public Service)
Commission's Audit of Econ)
Utilities Corporation)

ORDER DENYING CONFIDENTIAL CLASSIFICATION

By request dated March 16, 1995, Econ Utilities Corporation (Econ) has sought confidential classification, pursuant to Rule 25-22.006, Florida Administrative Code, for certain information obtained by Commission auditors.¹ That information, contained in Econ's response to Audit Document/Record Request Number 5, item number 1, pertains to salaries of employees of both Magna Properties, Inc. (Magna) and Genesis National, Inc. (Genesis) who perform work for Econ.

Econ² noted that it is the policy of both Magna and Genesis to treat such information as confidential and that the inclusion of such salary information in the public record would be an unnecessary invasion of privacy.

Florida law provides, in section 119.01, Florida Statutes, that documents submitted to governmental agencies shall be public records. The only exceptions to this law are specific statutory exemptions and exemptions granted by governmental agencies pursuant to the specific terms of a statutory provision. Pursuant to section 367.156 and Rule 25-22.006, it is the company's burden to show that the material submitted is qualified for specified confidential classification. Rule 25-22.006 provides that the company may fulfill its burden by demonstrating that the documents fall into one of the statutory examples set out in section 367.156(3) or by demonstrating that the information is proprietary confidential information the disclosure of which will cause the company or its ratepayers harm.

In this instance, section 367.156(3)(f), Florida Statutes, provides that proprietary business information includes

¹ The location of this information in Document Nos. 02843-95 and 02944-95 is listed in Attachment I.

² Though Econ is the requesting entity, the letter requesting confidential classification was written by Magna's controller.

DOCUMENT NUMBER-DATE

04061 APR 24 95

FPSC-RECORDS/REPORTING

ORDER NO. PSC-95-0503-CFO-WS
DOCKET NO. 950318-WS
PAGE 2

Employee personnel information unrelated to compensation, duties, qualifications, or responsibilities. [e.s.]

Because the salary information at issue is employee personnel information related to compensation, and the legislature in section 367.,156(3)(f) specifically excluded that category of information from the statutory definition of proprietary business information, the information must be treated as public record pursuant to section 119.01, Florida Statutes. See e.g., Lehigh Utilities, Inc., Docket No. 911188-WS, Order No. PSC-92-1280-CFO-WS, issued: 11/10/92, p. 4.

In addition, and as noted in Attachment I, six working papers accorded temporary confidential status were not covered by Econ's request for confidential classification. Confidentiality as to those documents has been waived pursuant to Rule 25-22.006(3)(a), Florida Administrative Code.

In view of the above, it is

ORDERED by Commissioner Joe Garcia that confidential classification for the material described herein and listed in the attached chart is denied. It is further

ORDERED that this docket is closed.

By ORDER of Commissioner Joe Garcia, as Prehearing Officer, this 20th day of April, 1995.


JOE GARCIA, Commissioner and
Prehearing Officer

(S E A L)

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.59(4), 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.

Any party adversely affected by the Commission's final action in this matter may request: 1) reconsideration of the decision by filing a motion for reconsideration with the Director, Division of Records and Reporting within fifteen (15) days of the issuance of this order in the form prescribed by Rule 25-22.060, 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 sewer utility by filing a notice of appeal with the Director, Division of Records and Reporting and filing a copy of the notice of appeal and the filing fee with the appropriate court. This filing must be completed within thirty (30) days after the issuance of this order, pursuant to Rule 9.110, Florida Rules of Civil Procedure. The notice of appeal must be in the form specified in Rule 9.900 (a), Florida Rules of Appellate Procedure.