

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Application for rate) DOCKET NO. 960451-WS
increase in Duval, Nassau and) ORDER NO. PSC-97-0022-FOF-WS
St. Johns Counties by United) ISSUED: January 6, 1997
Water Florida Inc.)
_____)

ORDER OVERRULING OBJECTION TO INTERROGATORY NO. 73 FROM THE
COMMISSION STAFF'S SECOND SET OF INTERROGATORIES AND DENYING
MOTION FOR PROTECTIVE ORDER, INCLUDING REQUEST FOR CONFIDENTIAL
CLASSIFICATION OF COMMISSION DOCUMENT NO. 12596-96

On November 5, 1996, United Water Florida Inc. (UWF or utility) filed an Objection to Interrogatory No. 73 from the Commission Staff's Second Set of Interrogatories. On November 25, 1996, UWF filed a Notice of Intent to Request Confidential Classification and a Motion for Protective Order, Including Request for Confidential Classification of its response to this interrogatory. The utility's request addresses Commission Document No. 12596-96.

By Interrogatory No. 73, the staff requests that UWF provide the annual salary for 1995 and, as projected, for 1996 and 1997 for any person employed by United Water Resources (UWR), United Waterworks (UWW), and United Water Management & Services (UWM&S) who is testifying in this case and/or who has charged time to the company during the historic test year 1995.

UWF argues that the information sought by this interrogatory and contained in Commission Document No. 12596-96 constitutes proprietary confidential business information as defined in Section 367.156(3), Florida Statutes, and Rule 25-22.006, Florida Administrative Code. According to UWF, the disclosure of this information would impair the competitive business of the United Water companies and may adversely affect employee morale. Moreover, the utility argues that the information requested is not information on the salaries of employees of the regulated utility.

Section 367.156(2), Florida Statutes, provides that proprietary confidential business information shall be exempt from disclosure under Section 119.07(1), Florida Statutes. However, Commission Document No. 12596-96 does not constitute proprietary confidential business information as defined by Section 367.156(3), Florida Statutes. That section provides, in relevant part, that proprietary confidential business information includes, but is not limited to:

DOCUMENT NUMBER-DATE

00094 JAN-65

FPSC-RECORDS/REPORTING

- (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.

In view of the compelling clarity of the language of Section 367.156(3)(f), Florida Statutes, it is apparent that Section 367.156(3)(e), Florida Statutes, may not be invoked to protect company employee compensation information from disclosure under the Public Records Act. Section 367.156(3)(e), Florida Statutes, is designed to protect against a competitor's obtaining, through the public disclosure of information, an unfair advantage in a competitive market for goods or services. This is not the sort of competitive interest which the utility seeks to protect. See Order No. PSC-96-0211-CFO-WS, issued February 14, 1996, in Docket No. 950495-WS. It is of no consequence that Commission Document No. 12596-96 contains salary information for employees of UWF's affiliated companies rather than for employees of UWF. Section 367.156(1), Florida Statutes, provides that the Commission shall have reasonable access to relevant records of the utility as well as to those of its affiliated companies, including its parent company. (See also Orders Nos. PSC-96-0407-CFO-WS, issued March 21, 1996, in Docket No. 950495-WS, and PSC-92-1073-CFO-WS, issued September 28, 1992, in Docket No. 920199-WS, in which the Commission denied requests for confidential treatment of salary information for employees of utility's affiliated companies, including parent companies.)

Based on the foregoing, UWF's Objection to Interrogatory No. 73 from the Commission Staff's Second Set of Interrogatories is overruled, and UWF's Motion for Protective Order, Including Request for Confidential Classification of Commission Document No. 12596-96 is denied. Pursuant to Rule 25-22.006(10), Florida Administrative Code, Commission Document No. 12596-96 shall be kept confidential until the time for filing an appeal has expired, and, upon request, through completion of judicial review.


It is, therefore,

ORDERED by Commissioner Diane K. Kiesling, as Prehearing Officer, that United Water Florida Inc.'s Objection to Interrogatory No. 73 from the Commission Staff's Second Set of Interrogatories is hereby overruled. It is further

ORDERED that United Water Florida Inc.'s Motion for Protective Order, Including Request for Confidential Classification of Commission Document No. 12596-96 is hereby denied. It is further

ORDERED that Commission Document No. 12596-96 shall be kept confidential until the time for filing an appeal of this Order has expired, and, upon request, through completion of judicial review.

By ORDER of Commissioner Diane K. Kiesling, as Prehearing Officer, this 6th day of January, 1997.


DIANE K. KIESLING, Commissioner and
Prehearing Officer

(S E A L)

RGC

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 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, if issued by a Prehearing Officer; (2) reconsideration within 15 days pursuant to Rule 25-22.060, Florida Administrative Code, if issued by the Commission; or (3) 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 Director, Division of

Records and Reporting, in the form prescribed by Rule 25-22.060, 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.