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COMMISSION CLERK

Public Service Commission

March 23, 2006

F. Marshall Deterding
Rose, Sundstrom & Bentley, LLP
2548 Blainstone Pines Drive
Tallahassee, Florida 32301

Re: Docket 050862-WU – Application for staff-assisted rate case in Marion County by County-Wide Utility Co., Inc.

Dear Mr. Deterding:

We have reviewed your request for confidential classification filed on March 10, 2006, on behalf of County-Wide Utility Co., Inc. (County-Wide or utility). Your request covers two different instances in which County-Wide provided what it claims to be sensitive information, namely: (1) in a February 14, 2006, response to a data request made by staff engineer Edwards; and (2) in a response to materials provided at the February 17, 2006 audit exit conference held between audit staff and County-Wide. There are different procedures governing how these different types of materials are processed; however, based upon your request and absent other instructions, we will process the request for confidential classification of these two types of materials together.

In reviewing your request, as well as the audit working papers, we have determined that the audit exit meeting was incomplete and that your request for confidential classification appears to be deficient. To aid in the identification of material referenced in this letter, an Analysis of Confidential Documents is attached hereto as Attachment 1, along with an accompanying legend, which is attached hereto as Attachment 2.

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Incomplete Audit Exit Meeting

On February 17, 2005, staff auditors held an audit exit meeting with the utility at which the staff provided copies of 50 sensitive working papers prepared during the audit to the utility. This exit meeting was incomplete in the following areas:

WP 33/1 (6 pages)

The staff auditor retained six working papers containing bank account information. Pursuant to Section 119.071(5)(b), Florida Statutes, this information is *per se* confidential. The bank account information is no longer needed and will be returned to you under separate cover by the Commission's confidential records custodian.

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WP 43-5/1 (1 page)

The staff auditor retained a working paper containing social security information. Pursuant to Section 119.071(5)(a)3., Florida Statutes, this information is *per se* confidential. The social security account information is no longer needed and will be returned to you under separate cover by the Commission's confidential records custodian.

WP 10-3 (6 pages), WP 33/1 (6 pages), 43-5/1 (1 page) and 43-1 (29 pages)

These working papers were incomplete when they were presented to the utility at the February 17, 2006 audit exit meeting as described below:

WP 10-3 (6 pages, 3 of 8 through 8 of 8) – These working papers were provided to the utility without the page number of each working paper clearly identified. Corrected copies will be provided.

WP 33/1 (6 pages) – This working paper contains bank account numbers which should not have been retained by the staff after the audit fieldwork ended. Corrected partially redacted copies of this working paper will be provided.

WP 43-1 (29 pages) – This working paper is incomplete because 29 pages should have been provided instead of 17 pages. All 29 pages of this invoice will be provided.

WP 43-5/1 (1 page) – This working paper contains social security account numbers which should not have been retained by the staff after the audit fieldwork ended. A corrected partially redacted copy of this working paper will be provided.

In all, the utility received 50 pages of sensitive documents from the staff auditors at the February 12, 2006 audit exit meeting. The utility should have received 62 pages of sensitive working papers, all of the pages should have been clearly numbered, and the social security information and bank account information should have been redacted. To correct these errors, a letter from the Bureau of Auditing is enclosed with these materials, with a copy of all 62 pages of sensitive working papers attached thereto. Further, Attachment 1 is an analysis and comparison of your initial request for confidential classification with these newly-provided 62 pages of sensitive working papers.

Deficiencies in the Request for Confidential Classification

The staff has identified the following deficiencies in your Request for Confidential Classification:

Failure to Identify Materials and Provide Justification by Page and Line

Rule 25-22.006(4)(a), Florida Administrative Code, provides, in part, that “[t]he utility or other person shall identify the page and line at which the confidential material is found and shall correlate the page and line identified with the specific justification proffered in support of the classification of such material.” The utility has failed to identify the sensitive material by page and

line and to provide the necessary justification by page and line. Failure to make such a justification by page and line would be fatal to the utility's request. See, e.g., Order No. PSC-94-0839-FOF-WS, issued July 11, 1994, in Docket No. 921261-WS, In Re: Application for a rate increase in Lee County by Harbor Utilities Company, Inc.

Failure to Justify that Materials Qualify for Confidential Classification

Section 367.156(3), Florida Statutes, provides that "[p]roprietary confidential information business information means information, regardless of form or characteristics, which is owned or controlled by the person or company, is intended to be and is treated by the person or company as private in that the disclosure of the information would cause harm to the ratepayers or the person's or company's business operations, and has not been disclosed unless disclosed pursuant to a statutory provision, an order of a court or administrative body, or a private agreement that provides that the information will not be released to the public." That Section further provides, in relevant part, that proprietary business information includes but is not limited to:

Security measures, systems or procedures;

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 or services on favorable terms;

Information relating to competitive interests, the disclosure of which would impair the competitive businesses of the provider of the information; and

Employee personnel information unrelated to compensation, duties, qualifications, or responsibilities.

Florida has a very broad public records law. Without further justification, staff believes that the following materials do not qualify for confidential classification:

1) Employee personnel information concerning compensation, duties, responsibilities or qualifications. See also item E, Attachment 2 to this letter;

2) Water company costs and expenditures. There is no showing of harm or reference to a prior administrative decision showing that disclosure of water company costs will cause harm. See Item F, Attachment 2 to this letter;

3) Water customers can reasonably be identified using public sources. Thus, the names of water customers do not appear to qualify for confidential classification. Further, disclosure of a customer number does not appear to cause harm. See Item G, Attachment 2 to this letter;

4) The utility has not adequately shown that the water system maps are treated as confidential by another state agency and that they therefore qualify for confidential classification. See Item H, Attachment 2 to this letter.

Failure to Provide Required Affirmative Statement

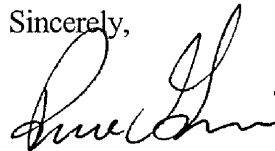
Rule 25-22.006(4)(d), Florida Administrative Code, requires that “[t]he request” [for confidential classification] shall include an affirmative statement that the material for which confidential classification is sought is intended to be and is treated by the utility and other person as private and has not been disclosed.” The utility failed to make this affirmative statement in its filing.

Next Steps

In response to this letter, the utility may provide additional justification as to why its Request for Confidential Classification should be granted. Within 21 days from the date of this letter, the utility may file a revised request for confidentiality to cure any deficiencies identified in this letter and/or withdraw any portions of its request, as the utility deems appropriate. If no response to this letter is received within 21 days, a recommendation will be presented to the Prehearing Officer for a ruling on the utility’s Request for Confidential Classification, as filed.

If you have any technical questions regarding this matter, please contact Robert Freeman at (850) 413-6485 or by e-mail at bfreeman@psc.state.fl.us. If you have procedural or other questions regarding this matter, please feel free to contact me at (850) 413-6224.

Sincerely,



Rosanne Gervasi
Senior Attorney

Enclosures

Cc: Division of Economic Regulation (Willis, Rendell, Edwards) (w/o enclosures)
Bureau of Auditing (Vandiver, Freeman, Rohrbacher) (w/o enclosures)
Division of the Commission Clerk & Administrative Services (w/o enclosures)