

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for increase in water and wastewater rates in Alachua, Brevard, DeSoto, Highlands, Lake, Lee, Marion, Orange, Palm Beach, Pasco, Polk, Putnam, Seminole, Sumter, Volusia, and Washington Counties by Aqua Utilities Florida, Inc.

DOCKET NO. 080121-WS
ORDER NO. PSC-09-0578-PCO-WS
ISSUED: August 27, 2009

ORDER GRANTING TEMPORARY PROTECTIVE ORDER

On August 11, 2009, Aqua Utilities Florida, Inc. (AUF or Utility) filed its Motion for Protective Order Based on Confidentiality, pursuant to Section 367.156, Florida Statutes (F.S.), and Rule 25-22.006(6), Florida Administrative Code (F.A.C.), covering certain documents sought in discovery by the Office of Public Counsel (OPC). The Utility states that the documents sought by OPC were filed on June 22, July 20, and July 23, 2009, pursuant to the Quality of Service Monitoring Plan set forth in Order No. PSC-09-0835-FOF-WS, issued May 27, 2009. The documents consist of: (1) a monthly report listing all customer complaints for May; (2) sound recordings of customer complaints for May; and (3) meter reading logs for May.

AUF contends that the documents responsive to OPC's Request for Production of Documents Nos. 246-248, filed by OPC on July 1, 21, and 27, 2009, respectively, contain "proprietary customer-specific information, the disclosure of which would harm the privacy interests of individual customers and subject those customers to other harm, including potential identity theft." AUF notes that when it filed this customer-specific information in accordance with the Quality of Service Monitoring Plan, it requested that the information be classified as confidential and exempt from Chapter 119, F.S., and Article I, Section 24(a) of the Florida Constitution.¹

Rule 25-22.006(6), F.A.C., codifies the Commission's policy protecting 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)(a), F.A.C., in pertinent part, states that ". . . any utility or other person may request a protective order protecting proprietary confidential business information from discovery." Additionally, Rule 25-22.006(6)(c), F.A.C., states:

When a utility or other person agrees to allow Public Counsel to inspect or take possession of utility information for the purpose of determining what information is to be used in a proceeding before the Commission, the utility may request a temporary protective order exempting the information from section 119.07(1), Florida Statutes.

¹ The Commission has not yet ruled on this request.

DOCUMENT NUMBER-DATE

08890 AUG 27 8

FPSC-COMMISSION CLERK


Upon consideration, pending the final determination of the confidential nature of these documents, the documents responsive to OPC's Request for Production of Document Nos. 246-248 shall be protected by a Temporary Protective Order.

Based on the foregoing, it is

ORDERED by Commissioner Lisa Polak Edgar, as Prehearing Officer, that the Motion for a Protective Order filed by Aqua Utilities Florida, Inc., is denied. It is further

ORDERED that the documents sought by the Office of Public Counsel shall be protected by a Temporary Protective Order, pending the final determination of their use before the Commission.

By ORDER of Commissioner Lisa Polak Edgar, as Prehearing Officer, this 27th day of August, 2009.


LISA POLAK EDGAR
Commissioner and Prehearing Officer

(S E A L)

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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 25-22.060, 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.