

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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In re: Application for increase in water rates)
in Franklin County by)
Water Management Services, Inc.)

Docket No. 100104-WU COMMISSION
Filed: July 7, 2010 CLERK

WATER MANAGEMENT SERVICES, INC.'S REQUEST
FOR CONFIDENTIAL CLASSIFICATION OF INFORMATION PROVIDED
IN RESPONSE TO STAFF'S AUDIT REQUEST #2

Applicant, WATER MANAGEMENT SERVICES, INC. ("WMSI"), pursuant to Section 367.156, Florida Statutes, and Rule 25-22.006(3), Florida Administrative Code, requests confidential classification of information related to a 2008 litigation settlement between WMSI and McWane, Inc., Consolidated Pipe & Supply Company, Inc., Boh Brothers Construction Co., LLC, and Blankenship Contracting, Inc. (collectively, "the Companies"), which was provided in redacted form in response to Florida Public Service Commission ("Commission") audit staff's request for information. In support of its request, WMSI states:

1. On June 14, 2010, Commission staff made 11 audit requests to WMSI, including audit request #2, for WMSI to "[p]lease provide any continuing property records as well as all invoices, contracts, cancelled checks and any other supporting documentation for plant in service (including land) additions, retirements, and recorded adjustments from January 1, 2004 up through December 31, 2009."

2. WMSI provided responses to this request on June 18, 2010, with copies of numerous documents, including three (3) documents related to the aforementioned settlement.

COM _____ These documents included redacted copies of the mediation settlement agreement and of attorney
APA |
ECR | invoices dated June 9, 2008, and July 2, 2008, containing entries related to the settlement. In
GCL |
RAD | accordance with paragraph 10 of the mediation settlement agreement, the terms of the agreement
SSC _____
ADM _____
OPC _____
CLK Pena

CLAIM OF CONFIDENTIALITY
NOTICE OF INTENT
★ REQUEST FOR CONFIDENTIALITY
FILED BY OPC
FOR DN 05550-10, WHICH
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“are confidential and may not be disclosed to any third party, unless required by law.” Paragraphs 1-9 and 11-12 of the mediation settlement agreement show the confidential terms of the settlement agreement. In the June 9, 2008 invoice, the 5/28/08 entry on page 4 and the trust account activities on page 5 contain confidential information related to the terms of the settlement agreement. In the July 2, 2008 invoice, the 6/2/08, 6/5/08, 6/10/08, 6/11/08, and 6/12/08 entries on page 1, the 6/19/08 entry on page 2, and the 6/20/08 and 6/23/08 trust account activities on page 3 contain confidential information related to the terms of the settlement agreement. The disclosure of this information would cause harm because it would expose WMSI to potential liability to the Companies for violating the mediation settlement agreement. Accordingly, WMSI has provided the documents in redacted form to protect the specified confidential information.

3. The documents are entitled to confidential classification pursuant to Section 367.156(3), Florida Statutes, and Rule 25-22.006, Florida Administrative Code, and are exempt from Section 119.07(1), Florida Statutes, and Article I, Section 24(a) of the Florida Constitution because the documents contain confidential information related to a private, contractual agreement between WMSI and the Companies, which constitutes propriety confidential business information as defined in Section 367.156(3).

4. Section 367.156(3), Florida Statutes, defines propriety confidential business information as: “. . . 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.” The information related to the settlement, which WMSI treats as private in that disclosure would cause harm to its business operations and which has not been disclosed in compliance with a private agreement, is “proprietary confidential business information.”

5. Further, Section 367.156(3) defines “Proprietary business information” to include, but not be limited to “Trade secrets,” “Internal auditing controls and reports of internal auditors,” “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.” The information that WMSI seeks to protect includes contractual data related to a settlement agreement, the disclosure of which would impair the utility’s ability to enter into such an agreement in the future and would impair its business operations by exposing WMSI to potential liability to the Companies for violating the settlement agreement.

6. The settlement agreement information subject to this request fits the statutory definition of propriety confidential business information under Section 367.156(3), Florida Statutes, and Rule 25-22.006, Florida Administrative Code, and that information should be afforded confidential classification. In support of this request, WMSI has enclosed the following:

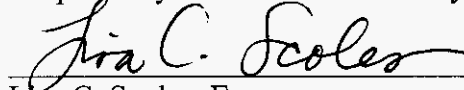
- Confidential Attachment A: A separate, sealed envelope contains the mediation settlement agreement and the attorney invoices dated June 9, 2008 and July 2, 2008, with the appropriate lines containing confidential information highlighted

(and the specific payor information redacted).¹ All of the highlighted (or redacted) confidential information is treated by WMSI as private and has not been disclosed. This information should be afforded confidential treatment pending a decision on WMSI's request by the Commission; and

- Attachment B: This attachment contains two copies of the settlement agreement and attorney invoices with the information for which WMSI has requested confidential classification redacted.

WHEREFORE, WMSI requests that the specified confidential information in the mediation settlement agreement and attorney invoices highlighted (or redacted) in Confidential Attachment A be classified as confidential and exempt from Chapter 119, Florida Statutes, and Article I, Section 24 of the Florida Constitution for the maximum period allowable.

Respectfully submitted this 7th day of July 2010,



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COUNSEL FOR WATER MANAGEMENT SERVICES, INC.

¹ WMSI recognizes that, in accordance with Rule 25-22.006(4), Florida Administrative Code, a separate, sealed envelope containing highlighted and completely unredacted documents would normally be filed with this request as part of Confidential Attachment A. However, given that WMSI is bound by the mediation settlement agreement not to provide this information "to any third party, unless required by law," in an abundance of caution, WMSI is providing the documents to the Commission with limited redaction. In order to facilitate the Commission's review by both audit and legal staff, WMSI has redacted only the individual payor's identity associated with each specific amount paid and not the other information for which it seeks confidential classification. If the limited redaction of the documents in Confidential Attachment A is not acceptable to the Commission for purposes of WMSI's request for confidentiality, and upon written demand from the Commission that the limited redaction be removed, WMSI will provide a clean copy of the documents, under claim of confidentiality.

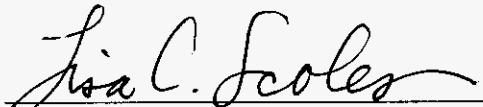
CERTIFICATE OF SERVICE:

I hereby certify that a copy of the foregoing along was furnished by U.S. mail this 7th day of July 2010, to the following:

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Re: Acknowledgement of Confidential Filing in Docket No. 100104-WU

This will acknowledge receipt by the Florida Public Service Commission, Office of Commission Clerk, of a CONFIDENTIAL DOCUMENT filed on July 7, 2010, in the above-referenced docket.

Document Number 05550-10 has been assigned to this filing, which will be maintained in locked storage.

If you have any questions regarding this document, please contact Kim Peña, Records Management Assistant, at (850) 413-6393.