

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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

DOCKET NO. 100330-WS
ORDER NO. PSC-11-0205-PCO-WS
ISSUED: April 25, 2011

TEMPORARY PROTECTIVE ORDER

By its Motion for Temporary Protective Order, filed December 13, 2010, Aqua Utilities Florida, Inc. (AUF) has requested, pursuant to Rule 25-22.006, Florida Administrative Code (F.A.C.), that this Commission issue a temporary protective order for materials and information requested by the Office of Public Counsel (OPC). Because OPC did not oppose AUF's motion, it did not respond in writing. Also, the time for filing any response has now expired. AUF's request is for temporary confidential treatment of information and documents provided pursuant to OPC's First Request for Production of Documents (PODs) Nos. 64, 65, 66, 67, 68, and 82, and AUF's supplemental answers to OPC's First Set of Interrogatories Nos. 74, 82, and 85.

AUF asserts that the materials and information provided in response to the above request are covered by the definition of "proprietary confidential business information" under Section 367.156, Florida Statutes (F.S.). Combined with its Motion for Temporary Protective Order, AUF also requests that the information be classified by the Commission as confidential for the maximum period of 18 months. AUF requests that the materials and information described above and provided in response to OPC's POD requests and interrogatories be granted the protection of a Temporary Protective Order, which will protect the materials and information from disclosure until OPC completes its review. AUF anticipates that OPC will identify the specific material it intends to use in this proceeding. AUF then will file a motion for a permanent protective order for confidential treatment of that specific material, pursuant to Rule 25-22.006, F.A.C. AUF further states that OPC does not object to the granting of this Motion.

Based on the foregoing, pursuant to this Commission's authority under Section 367.156, F.S., and Rule 25-22.006, F.A.C., AUF's Motion for a Temporary Protective Order is hereby granted. Accordingly, the documents and information described above and received by OPC from AUF shall be kept confidential and exempt from public disclosure under Section 119.07(1), F.S., for the duration of this Temporary Protective Order.

DOCUMENT NUMBER-DATE

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FPSC-COMMISSION CLERK

AUF shall, in accordance with the provisions of Rule 25-22.006, F.A.C., apply for confidential treatment of those portions of the materials and information which are, in its opinion, entitled to such treatment within fourteen days of notification that OPC has identified the documents or information it will use at the final hearing. This Temporary Protective Order shall remain in effect no longer than fourteen days after OPC determines which information it intends to use and notifies AUF, by which time OPC shall return to AUF all materials and information it does not intend to use in this proceeding. The expiration date of this Order shall be void upon the issuance of an order finding that the information and materials herein are not proprietary and confidential business information. This Order shall have no effect on the subsequent determination of any request for specified confidential classification of any of these materials and information.

Based on the foregoing, it is

ORDERED by Chairman Art Graham, as Prehearing Officer, that all documents or information received by the Office of Public Counsel from Aqua Utilities Florida, Inc., in response to the Office of Public Counsel's First Request for Production of Documents (PODs) Nos. 64, 65, 66, 67, 68, and 82, and AUF's supplemental answers to OPC's First Set of Interrogatories Nos. 74, 82, and 85, shall be treated temporarily as proprietary confidential business information within the meaning of Section 367.156, Florida Statutes, and protected from public disclosure as required therein. It is further

ORDERED that once the Office of Public Counsel has notified Aqua Utilities Florida, Inc., which of the materials the Office of Public Counsel intends to use in this docket, Aqua Utilities Florida, Inc., in accordance with Rule 25-22.006, Florida Administrative Code, shall file within fourteen days a motion for a permanent protective order requesting proprietary confidential treatment of those portions of the materials and information for which it desires confidential treatment. The remaining materials of those documents or information that the Office of Public Counsel does not plan to use in this proceeding shall be returned to Aqua Utilities Florida, Inc., in accordance with Rule 25-22.006, Florida Administrative Code. It is further

ORDERED that the Office of Public Counsel shall take measures to preserve the confidentiality of the documents and information protected by this Order. No disclosure of the documents or information protected by this Order shall be made or permitted. It is further

ORDERED that this Temporary Protective Order shall remain in effect no longer than fourteen days after the Office of Public Counsel determines which information it intends to use and notifies Aqua Utilities Florida, Inc. It is further

ORDERED that this Order will be the only notification by the Florida Public Service Commission to the parties concerning the expiration of this Temporary Protective Order.

By ORDER of Chairman Art Graham, as Presiding Officer, this 25th day of April, 2011.



ART GRAHAM
Chairman and Presiding Officer
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(SEAL)

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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.