

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for approval of transportation service agreement with Florida Public Utilities Company, by Peninsula Pipeline Company, Inc.

DOCKET NO. 110271-GU
ORDER NO. PSC-12-0118-CFO-GU
ISSUED: March 14, 2012

ORDER GRANTING PENINSULA PIPELINE COMPANY, INC.'S REQUEST FOR
CONFIDENTIAL CLASSIFICATION (DOCUMENT NO. 00767-12)

On February 8, 2012, Peninsula Pipeline Company, Inc. (Peninsula or the Company), pursuant to Section 366.093, Florida Statutes (F.S.), and Rule 25-22.006, Florida Administrative Code (F.A.C.), requested confidential treatment (Request) of certain information contained in Attachments 1 and 2 to its Petition for Approval of Revised and Amended Transportation Service Agreement with Florida Public Utilities Company ("FPUC") (Document No. 00767-12). This Request was filed in Docket 110271-GU.

Section 366.093(1), F.S., provides that "any records received by the commission which are shown and found by the commission to be proprietary confidential business information shall be kept confidential and shall be exempt from Section 119.07(1) [the Public Records Act]." Section 366.093(3), F.S., defines proprietary confidential business information as information that is intended to be and is treated by the company as private, in that disclosure of the information would cause harm to the company's ratepayers or business operations, and has not been voluntarily disclosed to the public. Sections 366.093(3)(d) and (e) F.S., provide that proprietary confidential business information includes, but is not limited to "[i]nformation concerning bids or other contractual data, the disclosure of which would impair the efforts of the public utility or its affiliates to contract for goods or services on favorable terms," and "[i]nformation relating to competitive interests, the disclosure of which would impair the competitive business of the provider of the information."

Peninsula contends that the information sought to be confidential falls within these categories and, thus, constitutes proprietary confidential business information entitled to protection under Section 366.093, F.S., and Rule 25-22.006, F.A.C. The information in Attachment 1 ("Comparison of Nassau County Cost"), for which Peninsula seeks confidential classification, is the highlighted amounts in all lines of the columns identified as "Year 1" through "Year 6." Peninsula states that this information provides a cost comparison between the originally filed Firm Transportation Agreement and the revised Firm Transportation Agreement. Also in Attachment 1, Peninsula requests confidential classification of the highlighted information in line 5 under the column header "Original PPC/FPUC Agreement," as well as comparable, highlighted information in line 5 in the column below, which is titled "Amended and Revised PPC/FPUC Agreement."

In Attachment 2 (Revised Transportation Services Agreement, dated February 1, 2012), Peninsula seeks confidential classification of the following information:

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- Data in Column identified as “MDTQ, in Dekatherms, excluding Fuel Retention;”
- Data associated with line identified as: “Total MDTQ (Dekatherms);
- Data associated with line identified as: “Fuel Retention Percentage;”
- Data associated with and in the first line of section titled: “Monthly Reservation Charge;”
- Rate associated with column/line identified as: “Unauthorized Use Rate (In addition to Monthly Reservation Charge).”

Peninsula states that the information sought to be kept confidential consists of rates and terms which represent contractual information. Peninsula contends that release of the referenced information as a public record would harm both Peninsula and FPUC’s business operations and ratepayers by impairing the Companies’ respective abilities to effectively negotiate for goods and services. Moreover, Peninsula asserts, release of the highlighted information under the Agreement-specific columns would be detrimental in that it includes negotiated interstate capacity costs that the companies treat as confidential, and which, if released, could damage future negotiations for capacity and impair FPUC’s ability to obtain favorable rates with other interstate pipelines.

Peninsula asserts that the Company and FPUC treat the described information as proprietary confidential business information, consistent with the definition of that term in Section 366.093, F.S. Peninsula further asserts that the information has not been made available in the public domain.

Time Period For Confidential Classification

According to Section 366.093(4), F.S., confidential classification may only extend for 18 months from the issuance of an Order granting confidential classification unless “the Commission finds, for good cause, that the protection from disclosure shall be for a specified longer period.” Peninsula has not requested a period longer than the 18 months.

Ruling

Upon review, it appears the above-referenced information satisfies the criteria set forth in Section 366.093(3), F.S., for classification as proprietary confidential business information. The information constitutes “[i]nformation concerning bids or other contractual data, the disclosure of which would impair the efforts of the public utility or its affiliates to contract for goods or services on favorable terms” and “[i]nformation relating to competitive interests, the disclosure of which would impair the competitive business of the provider of the information.” Thus, the information identified in Document No. 00767-12 shall be granted confidential classification.

Pursuant to Section 366.093(4), F.S., the information for which confidential classification is granted herein shall remain protected from disclosure for a period of 18 months from the date of issuance of this Order. At the conclusion of the 18-month period, the confidential information will no longer be exempt from Section 119.07(1), F.S., unless Peninsula or another affected

person shows, and the Commission finds, that the records continue to contain proprietary confidential business information.


Based on the foregoing, it is

ORDERED by Commissioner Art Graham, as Prehearing Officer, that Peninsula Pipeline Company's Request for Confidential Classification of Document No. 00767-12 is granted. It is further

ORDERED that the information in Document No. 00767-12 for which confidential classification has been granted shall remain protected from disclosure for a period of 18 months from the date of issuance of this Order. It is further

ORDERED that this Order will be the only notification by the Commission to the parties concerning the expiration of the confidentiality time period.

By ORDER of Commissioner Art Graham, as Prehearing Officer, this 14th day of March, 2012.



ART GRAHAM
Commissioner and Prehearing Officer
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Copies furnished: A copy of this document is provided to the parties of record at the time of issuance and, if applicable, interested persons.

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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 25-22.0376, 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.