

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for authority to transfer of facilities and Certificate Nos. 548-W and 478-S from W.P. Utilities, Inc. to CAP Utilities, LLC, in Palm Beach County.

DOCKET NO. 120014-WS
ORDER NO. PSC-12-0256-CFO-WS
ISSUED: May 24, 2012

ORDER GRANTING CAP UTILITIES, LLC'S
REQUEST FOR CONFIDENTIAL CLASSIFICATION OF DOCUMENT NO. 03090-12

In this application for transfer of facilities and certificates from W.P. Utilities, Inc. (WP) to CAP Utilities, LLC (CAP), upon request of Commission staff, the parties filed the sales contract with the Commission on May 15, 2012. At the same time, CAP requested that certain portions of the sales contract be afforded confidential treatment and attached the sales contract in both highlighted (confidential) and redacted form. The confidential portion was assigned Document No. 03090-12.

Section 367.156(1), Florida Statutes (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 367.156(3), F.S., defines proprietary confidential business information as information that is intended to be and is treated by the person or company as private, in that disclosure of the information would cause harm to the person's or company's ratepayers or business operations, and has not been disclosed to the public. Sections 367.156(3)(a), (3)(d), and (3)(e), F.S., provide that proprietary confidential business information includes, but is not limited to:

(a) Trade Secrets.

(d) 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;

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

CAP contends that the information obtained through this staff request satisfies the requirements of both Section 367.156, F.S., and Rule 25-22.006, Florida Administrative Code (F.A.C.). Specifically, CAP states that the information contained on pages 1, 10, and 11 falls within this category and thus constitutes proprietary confidential business information entitled to protection under Section 367.156, F.S., and Rule 25-22.006(3), F.A.C. CAP notes that the information consists of the purchase price of the utility company, the Mobile Home Park, non-utility equipment and other assets and rights. Also, the sales contract sets forth the deposit for the transfer and the amount of financing. CAP considers this information to be trade secrets, or information concerning contractual data, or information relating to competitive interests the

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disclosure of which would impair its competitive businesses. CAP further states that the information is intended to be and is treated as private and confidential, and that its disclosure would impair CAP's competitive interests.

Analysis and Ruling

I conclude the information contained in Document No. 03090-12 satisfies the criteria set forth in Section 367.156(3)(a), (3)(d), and (3)(e), F.S., for classification as proprietary confidential business information. The information constitutes either: (1) trade secrets; (2) contractual data; or (3) "[i]nformation relating to competitive interests, the disclosure of which would impair the competitive business of the provider of the information." Thus, the information contained in Document No. 03090-12, specifically set out above, and also listed on Attachment A, shall be granted confidential classification.

Pursuant to Section 367.156(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 CAP 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 CAP Utilities, LLC's Request for Confidential Classification of information contained within Document No. 03090-12 is granted. It is further

ORDERED that the information in Document No. 03090-12 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 shall be the only notification by the Commission to the parties of the date of declassification of the materials discussed herein.

By ORDER of Commissioner Art Graham, as Prehearing Officer, this 24th day of May, 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.

RRJ

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.

JUSTIFICATION MATRIX

<u>Location</u> (Specific request w/page number)	<u>Justification</u> <i>Please note: All information for which the Utility requests Confidential treatment has been kept confidential by the Utility, and intends to keep such information confidential.</i>
Page 1	<p>§367.156 (3)(a), §367.156 (3)(d), §367.156 (3) (e) Disclosure of trade secrets and information concerning bids or other contractual data, the disclosure of which would impair the efforts of the utility or its affiliates to contract 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.</p> <p>The purchase price of the Utility Company as well as the Mobile Home Park itself (the real property, improvements, non-utility company equipment, and other assets and rights), along with the amount set forth as a deposit for the purchase, and the amount of financing, are all listed in the contract. The purchaser of the mobile home park considers the purchase price for the real property, related non-utility company assets, deposit amount and financing as trade secrets and proprietary business information and confidential. The Utility respectfully requests that this information be kept confidential. Disclosure of this information would impair the rights and the interest of the Utility Company and, more importantly, the affiliated entity that purchased the real property, in being competitive interest when negotiating in future purchases and in dealing with other third parties. This information is not relevant to the transfer of certificates.</p>
Page 10 and 11	<p>§367.156 (3)(a), §367.156 (3)(d), §367.156 (3)(e) Disclosure of trade secrets and information concerning bids or other contractual data, the disclosure of which would impair the efforts of the utility or its affiliates to contract goods or services</p>

on favorable terms. Information relating to competitive interests, the disclosure of which would impair the competitive businesses of the provider of the information.

The amount listed as cost of repair in the event of destruction or damage and condemnation is not relevant to the transfer of certificates. The purchaser of the mobile home park considers the purchase price for the real property, related non-utility company assets, deposit amount and financing as trade secrets and proprietary business information and confidential. The Utility respectfully requests that this information be kept confidential. Disclosure of this information would impair the rights and the interest of the Utility Company and, more importantly, the affiliated entity that purchased the real property, in being competitive interest when negotiating in future purchases and in dealing with other third parties.