

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for transfer of Wastewater
Certificate No. 318-S from BFF Corp. to
CSWR-Florida Utility Operating Company,
LLC, in Marion County.

Docket No.: 20220061-SU

Filed: June 29, 2023

**CSWR-FLORIDA UOC'S SUPPLEMENTAL MEMORANDUM IN SUPPORT OF ITS
REQUEST FOR CONFIDENTIAL CLASSIFICATION OF
WASTEWATER FACILITY REPORT**

CSWR-Florida Utility Operating Company, LLC (“CSWR-Florida UOC” or “Applicant”), pursuant to section 367.156, Florida Statutes, and rule 25-22.006, F.A.C., files this supplemental memorandum in support of its pending request for confidential classification of portions of a wastewater facility engineering report. CSWR-Florida UOC further states:

1. On March 15, 2022, CSWR-Florida UOC filed its transfer Application, which included as its Exhibit H a preliminary engineering report on the BFF Corp. wastewater system.
2. On July 5, 2022, to supplement Exhibit H and respond to discovery from the Office of Public Counsel, CSWR-Florida UOC filed a comprehensive Wastewater Facility Report prepared by Clearpoint Consulting Engineers, P.A., relating to the condition of the BFF Corp. system. The Wastewater Facility Report was filed in the public docket partially redacted, together with a Request for Confidential Classification of the redacted portions, which include the Engineering Memo (pages 2-6 of the Wastewater Facility Report) and Attachment C Collection System Photographs. An unredacted, highlighted, copy of the Wastewater Facility Report was hand delivered to the Clerk’s office.
3. The July 5, 2022, Request For Confidential Classification asserts that the redacted portions meet the section 367.156(3), Florida Statutes, definition of “proprietary confidential business information” in at least three (3) ways: 1) as trade secrets; 2) as 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; and 3) as information relating to competitive interests, the disclosure of which would impair the competitive businesses of the provider of the information.

4. In a 2002 docket, Utilities, Inc. sought confidential classification of schedules of its planned utilities acquisitions and portions of board meeting minutes concerning acquisitions. *In Re: Request For Confidential Classification Of Certain Work Papers In Connection With Affiliate Transaction Audit (Audit Control No. 02-122-3-1) By Utilities, Inc.*, Order No. PSC-03-0410-CFO-WS, Docket No. 20021173-WS (Fla. PSC March 25, 2003). The company argued disclosure would impair negotiations for the purchase of utility systems in the future because another prospective purchaser, a competitor, could use the information to determine how much the company would pay for systems, impairing the objective of purchasing systems for the lowest possible price. As with CSWR-Florida UOC's acquisition of the BFF Corp. system, the information related to acquisitions that were still then pending. The company said disclosure "could negatively affect the way these plans and business strategies are carried out." By the Order, the Commission granted confidential classification of the information, concluding that:

Disclosure of the utility's business strategies and acquisition planning information would impair negotiations for the purchase of utility systems in the future and its ability to purchase the systems at the lowest possible price. In addition, the costs of planning and efforts to purchase utility systems are not directly recoverable through current rates and charges; therefore, the costs of utility purchases affect the operations and contractual ability of the competitive part of this company.

Since release "would impair the competitive business strategy and contractual abilities" of the company, it qualified for confidential classification. Similarly, disclosure of the referenced portions of the report would give CSWR-Florida UOC competitors confidential acquisition planning information relating to the BFF Corp. system. Paired with the purchase price, a competitor would know confidential details of the status and condition of the system, providing

insight into CSWR-Florida UOC's acquisition planning processes and perhaps the opportunity to induce BFF Corp. to breach the agreement or otherwise undercut the planned acquisition. A competitor could use the information to attempt to derail CSWR-Florida UOC's acquisition of the BFF Corp. system, the ultimate in impairing the competitive business interests of CSWR-Florida UOC. Finally, the information is proprietary to CSWR-Florida UOC and was prepared at significant expense, which as noted by the Commission in the Order is not directly recoverable and comprises costs that alone "affect the operations and contractual ability of the competitive part of this company."

WHEREFORE, CSWR-Florida UOC requests that the above information be considered as supplemental support for its July 5, 2022, Request for Confidential Classification, and that the referenced portions of the wastewater facility report be classified as confidential and exempt from disclosure under the Public Records Act, chapter 119, Florida Statutes, and Article I, Section 24(a) of the Florida Constitution.

Respectfully submitted this 29th day of June, 2023.

/s/ Thomas A. Crabb

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing has been furnished via electronic mail to the following this 29th day of June, 2023.

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