

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Application for a rate increase by City Gas Company of Florida. ) DOCKET NO. 940276-GU  
) ORDER NO. PSC-94-1457-CFO-GU  
) ISSUED: November 29, 1994  
\_\_\_\_\_)

ORDER GRANTING CITY GAS COMPANY OF FLORIDA'S  
REQUEST FOR CONFIDENTIAL CLASSIFICATION AND  
MOTION FOR PERMANENT PROTECTIVE ORDER

BY THE COMMISSION:

On November 1, 1994, City Gas Company of Florida (City Gas or Company) filed its Request for Confidential Classification and Motion for Permanent Protective Order regarding late-filed exhibit number 16 to the deposition of Jerry Wutzler. The information is found in Document No. 11103-94.

Pursuant to Section 366.093, Florida Statutes, a utility requesting confidential classification must demonstrate that the document contains proprietary confidential business information. The Florida Legislature has determined that proprietary confidential business information means information, owned or controlled by the utility, which is intended to be and is treated as private in that disclosure would cause the utility or its ratepayers harm and has not been disclosed, unless disclosed pursuant to a statutory provision, an order of a court or administrative body, or private agreement that provides that the information will not be released to the public. Section 366.093(3), Florida Statutes.

The documents requested by Staff as late-filed deposition exhibit number 16 deal with the due diligence review relating to City Gas' purchase of Western Energy. City Gas asserts that these documents are the subject of a Confidentiality and Nondisclosure Agreement (Agreement) executed by Elizabethtown Gas (Elizabethtown) and Western Energy. Both City Gas and Elizabethtown are operating divisions of NUI Corporation. Elizabethtown negotiated the purchase of Western Energy on behalf of City Gas. The Agreement provides that Elizabethtown will be provided with information concerning Western Energy and that Elizabethtown is required to keep the information confidential.

Upon consideration of the circumstances presented, the confidentiality of Document No. 11103-94 should be maintained. It appears the disclosure would cause harm to the Company's

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competitive interests. Thus, City Gas' request for confidential classification of Document No. 11103-94 is granted.

Based on the foregoing, it is

ORDERED by Commissioner Diane K. Kiesling that the Request for Confidential Classification and Motion for Permanent Protective Order of Document No. 11103-94, filed by City Gas Company of Florida is granted for the reasons set forth in the body of this Order. It is further

ORDERED that pursuant to Section 366.093, Florida Statutes, and Rule 25-22.006, Florida Administrative Code, any confidentiality granted to the documents specified herein shall expire eighteen (18) months from the date of issuance of this Order in the absence of a renewed request for confidentiality pursuant to Section 364.183. 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 Diane K. Kiesling, as Prehearing Officer, this 29th day of November, 1994.

  
DIANE K. KIESLING, Commissioner and  
Prehearing Officer

( S E A L )

VDJ

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.59(4), 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

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hearing or judicial review will be granted or result in the relief sought.

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 25-22.038(2), Florida Administrative Code, if issued by a Prehearing Officer; (2) reconsideration within 15 days pursuant to Rule 25-22.060, Florida Administrative Code, if issued by the Commission; or (3) 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 Director, Division of Records and Reporting, 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.