

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Application for rate) DOCKET NO. 960502-GU
increase by City Gas Company of) ORDER NO. PSC-97-0039-CFO-GU
Florida.) ISSUED: January 9, 1997
_____)

ORDER GRANTING CONFIDENTIALITY OF CERTAIN AUDIT WORKPAPERS

Pursuant to Section 366.093, Florida Statutes and Rule 25-22.006, Florida Administrative Code, City Gas Company of Florida has requested specified confidential treatment of certain audit workpapers prepared by the Commission Staff during its management audit of the falsification of valve maintenance and leak survey inspection records. The documents have been identified as Document Nos. 11687-96 and 13050-96.

Florida law presumes that documents submitted to governmental agencies shall be public records. The only exceptions to this presumption are the specific statutory exemptions provided in the law and exemptions granted by governmental agencies pursuant to the specific terms of a statutory provision. This presumption is based on the concept that government should operate in the "sunshine." It is the company's burden to demonstrate that the documents fall into one of the statutory examples set out in Section 366.093, Florida Statutes, or to demonstrate that the information is proprietary confidential information, the disclosure of which will cause the Company or its ratepayers harm.

In order to establish that material is proprietary confidential business information under Section 366.093(3) Florida Statutes, a utility must demonstrate (1) that the information is intended to be and is treated as confidential, and (2) that the disclosure of the data would cause harm to the utility or its ratepayers.

City Gas seeks to protect from disclosure the identity and information obtained from the employees who reported the record falsification ("the whistle blowers"). City Gas asserts that disclosure of this information would have a chilling effect on employees coming forward to report problems. In addition, the Company states that the information relates to activities of employees who were discharged and must be protected so that it is not available to these employees in the event of any litigation over their discharge.

City Gas has also requested confidential treatment of audit workpapers pertaining to the internal investigation performed by the Company. According to City Gas, this information is

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proprietary confidential business information, which if disclosed, would cause harm to the Company. City Gas argues that the information is entitled to protection because it discusses the internal controls and inner workings of the Company. The Company also asserts that disclosure of such information may have a chilling effect on utilities' willingness to perform such investigations or share the results with staff.

Upon review, I find that City Gas' request for confidential treatment shall be granted. Disclosure of the information which is the subject of this request would be harmful to the Company because it may discourage employees from reporting problems and violations which might not otherwise be detected. In addition, Section 366.093(3)(b), Florida Statutes, specifies that information found in internal auditing controls and in reports of internal auditors may be given confidential treatment. Audit workpapers relating to the internal investigation and report is similar to the information specified in Section 366.093(3)(b). In addition, the information shall be kept because it discusses personnel information which is unrelated to compensation, duties, qualifications, or responsibilities as set forth in Section 366.093(3)(e), Florida Statutes.

The specific audit workpaper numbers and lines relating to the documents that petitioner has requested confidential treatment, along with my findings, are listed in the table which follows:

Page	Lines	Finding	Reason
1	15-21, 24-28	Grant	Information from Internal Investigation
2	4, 11-13, 15-23	Grant	Information from Internal Investigation
3	2-5	Grant	Information from Internal Investigation
4	12	Grant	Information from Internal Investigation
6	1, 7, 8, 13-24, 26-29	Grant	Information from Internal Investigation
7	2, 4, 7-15, 29	Grant	Information from Internal Investigation
8	All	Grant	Information from Internal Investigation

Page	Lines	Finding	Reason
9	1, 3-16, 19, 20, 22-24, 28	Grant	Information from Internal Investigation
10	All	Grant	Information from Internal Investigation
11	7	Grant	Information from Internal Investigation
12	All	Grant	Information from Internal Investigation
13	All	Grant	Information from Internal Investigation
14	All	Grant	Information from Internal Investigation
15	All	Grant	Information from Internal Investigation
16	All	Grant	Information from "whistle blowers"
17	All	Grant	Information from "whistle blowers"
18	All	Grant	Information from "whistle blowers"
19	All	Grant	Information from "whistle blowers"
20	All	Grant	Information from "whistle blowers"
21	18-21, 25-30	Grant	Information from "whistle blowers"
22	1-5, 9-16, 20, 24-26	Grant	Information from "whistle blowers"
23	1-3, 9, 10, 12, 28-30	Grant	Information from "whistle blowers"
24	7-13, 16, 22- 24	Grant	Information from "whistle blowers"

Page	Lines	Finding	Reason
25	1-11, 15-23	Grant	Information from "whistle blowers"
26	1-8	Grant	Information from "whistle blowers"
27	1, 4-6, 9-24	Grant	Information from "whistle blowers"
28	All	Grant	Information from "whistle blowers"
29	All	Grant	Information from "whistle blowers"
30	All	Grant	Information from "whistle blowers"
31	All	Grant	Information from "whistle blowers"
32-36	All	Grant	Information from "whistle blowers"
37	All	Grant	Information from "whistle blowers"
38-40	All	Grant	Information from "whistle blowers"
41	All	Grant	Information from "whistle blowers"

City Gas has requested that the material not be declassified and that it be returned to the Company at the conclusion of the rate case. Section 366.093(4), Florida Statutes, provides that confidential material shall be returned to the utility when the Commission no longer needs the information to conduct its business. Document No. 11687-96 presents copies of the audit work papers filed by the utility in explanation of its filing. These documents shall be returned to the utility after the assigned confidential period has expired. The related document numbered 13050-96, however, presents the original audit work papers and shall be retained in accordance with the regular retention of staff work papers. These papers record work performed, record staff observations during fieldwork, and form the basis for subsequent staff audits. Should City Gas desire continued confidential

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treatment of the original work papers, it must request an extension of the period before the conclusion of the period assigned herein. This treatment is consistent with the Commission's policy. See Order No. PSC-96-0198-CFO-EI, issued February 13, 1996.

Section 366.093(4), Florida Statutes, also provides that the duration for confidential protection shall be limited to 18 months unless good cause is shown to allow a longer period. City Gas has not shown good cause for a confidentiality period greater than the period specified in Section 366.093(4). Thus, it is found that Document Nos. 11687-96 and 13050-96 shall be kept confidential for a period of 18 months.

Based on the foregoing, it is

ORDERED by Commissioner Joe Garcia, as Prehearing Officer, that City Gas Company of Florida's request for confidential treatment of Document Nos. 11687-96 and 13050-96 is granted as set forth in the body of this Order. It is further

ORDERED that this information shall remain confidential for the period of time set forth in the body 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 period.

By ORDER of Commissioner Joe Garcia, as Prehearing Officer, this 9th day of January, 1997.



JOE GARCIA, 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 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 25-22.0376, 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.