

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Purchased Gas Adjustment) DOCKET NO. 960003-GU
(PGA) Clause.) ORDER NO. PSC-96-0188-CFO-GU
_____) ISSUED: February 13, 1996

ORDER ON CITY GAS COMPANY'S REQUEST FOR CONFIDENTIAL TREATMENT
OF PORTIONS OF ITS NOVEMBER 1995 FILINGS

On December 22, 1995, City Gas Company of Florida (City Gas) filed a request for specified confidential treatment of certain line items in its Schedules A-1, A-1R, A-1, Supporting Detail, A-3, A-4 and its current month invoices from third party suppliers for natural gas purchases. City Gas asserts that this information for which confidential treatment is sought is treated by the utility and its affiliates as proprietary confidential business information and that it has not been disclosed to others. The confidential information is found in Document No. 12853-95.

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.

The Florida Legislature has determined that "[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" is proprietary confidential business information. Section 366.093(3)(d), Florida Statutes. To establish that material is proprietary confidential business information under Section 366.093(3)(d), Florida Statutes, a utility must demonstrate (1) that the information is contractual data, and (2) that the disclosure of the data would impair the efforts of the utility to contract for goods or services on favorable terms. The Commission has previously recognized that this latter requirement does not necessitate the showing of actual impairment, or the more demanding standard of actual adverse results; instead, it must simply be shown that disclosure is "reasonably likely" to impair the company's contracting for goods or services on favorable terms.

DOCUMENT NUMBER-DATE

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City Gas argues that public knowledge of the information denoted in the body of this Order "would impair the efforts of City Gas to contract for goods or services on favorable terms." Section 366.093(3)(d), Florida Statutes. Therefore, the following information should be given confidential treatment.

City Gas argues that Lines 28 and 31, Columns A, C, E and G of Schedule A-1; and, Columns A, B, C, E, F, G, of Schedule A-1R contain City Gas' Weighted Average Cost of Gas (WACOG) for the current month. Dissemination of this information could adversely influence the Company's ability to effectively negotiate for low-cost gas supplies. If gas suppliers know the Company's WACOG, they may tend to quote future gas prices at or above the weighted level. Likewise, vendors who previously supplied gas to the Company at prices below the average cost could tend to make future price concessions. As a consequence, ratepayers may pay higher gas costs.

City Gas contends that disclosure of Lines 4 and 18, Columns A, C, E and G of Schedule A-1; and, Columns A, B, C, E, F, G, of Schedule A-1R, will allow suppliers to derive the price that the Company pays third-party suppliers. Dividing Line 4, Cost of Gas Purchased, by Line 18, Therms Purchased, yields the WACOG that appears on Line 31. As explained above, publication of the information on Line 31 could diminish the Company's ability to constructively negotiate for gas supplies. Therefore, any information that could provide competitors with the contents of Line 31 should also be granted confidentiality.

City Gas further contends that Lines 1-6, 7-8 and 15-22, Columns A, C, E and G of Schedule A-1; and, Columns A, B, C, E, F, G, of Schedule A-1R contain components of arithmetical calculations used to derive the per therm price of gas. Disclosure of these numbers is reasonably likely to impair the Company's efforts to contract for goods and services on favorable terms. Similarly, the Company also requests confidentiality for Lines 1-40, Columns A "Therms," B "Invoice Amount," and C "Cost Per Therm" of Schedule A-1, Supporting Detail. This schedule shows the derivation and arithmetic manipulation of information of Schedules A-1 and A-1R.

City Gas argues that Schedule A-3, System End Use, identifies the Company's gas suppliers, as well as the price and volume of gas that the Company purchased for the month. Therefore, all the Lines of Columns A, B, C, D, E, F, G, H, I, J and K, and all totals, require confidential treatment.

City Gas contends that the information contained within Schedule A-4, Transportation System Supply, represents negotiated gas supply packages purchased from vendors. These prices vary

according to the operational flexibility of each contract. Release of any information therein would be detrimental to the interests of the Company and its customers since it would provide competitors with a list of City Gas' suppliers, volumes purchased and costs by gas supply source. Therefore, all Lines of Columns A, C, D, E, F, G and H require confidential treatment.

Gas Invoices from Florida Gas Transmission Pipeline contain volumes purchased and total bill amount. City Gas argues that these numbers could be manipulated arithmetically to derive the Company's WACOG. Therefore, pages B1 through B11 require confidential treatment. As explained above, if made public, this information could impair the Company's efforts to effectively negotiate for low-cost gas supplies.

City Gas requests confidential treatment of pages 9-11. The attached third-party Gas Invoices represent negotiated gas supply packages and contain data that must be kept confidential according to contractual terms between the Company and individual suppliers. Furthermore, as explained in paragraphs 1 through 5 above, release of any information such as the supplier's identity, or price and quantity of gas purchased may impair the efforts of City Gas to contract for goods or services on favorable terms.

It becomes necessary to keep the whole invoice confidential as any person familiar with the format, fonts and/or type sizes that each gas supplier uses in constructing respective invoices can easily determine their identity. Alternatively, City Gas requests confidentiality for the following information: the supplier's identity, address and phone number; length of the contract, invoice date, invoice number, contract number, customer identification number, description of service, average daily therm usage, name, address and phone number of contact person, points of gas receipt and delivery, transaction date, rate codes, base rates, surcharges and discounts, volumes and payment due. Release of such information may lead suppliers to fix prices at inflated levels, and as a consequence, ratepayers may pay higher gas costs.

In conjunction with the Gas Invoices, City Gas files a Schedule that summarizes all gas invoices and imbalance dispositions. This schedule is intended to facilitate the Commissioner's review of the filing. City Gas will continue to provide this schedule and requests confidential classification for the entire summary document.

City Gas requests confidential treatment for pages C1 through C26, for information with respect to customer name, unit price, purchase settlement amount and City Gas' lowest supplier commodity

rate as included on Imbalance Disposition statements between the Company and its customers. The Imbalance Disposition statements contain information regarding gas consumption volumes that is proprietary to the customers named on the statements. Public disclosure of that information could inhibit potential customers from selecting transportation service. Confidential treatment of the customer name prevents disclosure of customer specific information and, therefore, eliminates the possibility of inappropriately inhibiting customer decisions.

The information with respect to City Gas' lowest supplier commodity rate could adversely influence the Company's ability to effectively negotiate for low-cost gas supplies. If gas companies know the Company's lowest supplier commodity rate, they may tend to quote future gas prices at or above that rate and could resist making future price concessions. As a consequence, ratepayers may pay higher gas costs. If gas suppliers know the purchase settlement price paid for overtenders, they could derive the lowest supplier commodity rate or information that could be used to derive that rate.

City Gas requests confidential treatment for information with respect to bookout transactions for City Gas' overtenders in the interstate pipeline. These invoices represent negotiated packages and contain data that must be kept confidential according to contractual terms between the Company and trading associates. Furthermore, since these transactions are feasible for on- and off-system customers, any firm capacity holder has the potential of becoming City Gas' competitor. Any public knowledge of the Company's imbalance may give the firm capacity holder a competitive edge over City Gas. To remain competitive, the Company must ensure that competitors are unable to ascertain the identity of the trader, the price components, or the quantities involved in the transaction.

Section 366.093(4), Florida Statutes, states that any Commission finding that records contain proprietary confidential business information will remain effective for a period set by the Commission not to exceed 18 months, unless the Commission finds, for good cause, that protection from disclosure shall be made for a specified longer period. It is noted that this 18 month time period of confidential classification will ultimately protect City Gas and its ratepayers.

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In consideration of the foregoing, it is therefore

ORDERED by Commissioner J. Terry Deason, as Prehearing Officer, that the request for confidential treatment of the proprietary confidential business information discussed above, as found in Document 12853-95, shall be granted as discussed in the body of this Order. It is further

ORDERED that declassification is granted for a period of 18 months from the date 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 J. Terry Deason, as Prehearing Officer, this 13th day of February, 1996.


J. TERRY DEASON, Commissioner and
Prehearing Officer

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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 25-22.038(2), Florida Administrative Code, if issued by a Prehearing Officer; (2) reconsideration within 15 days pursuant to Rule 25-22.060, Florida

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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.