

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Purchased Gas Adjustment) DOCKET NO. 960003-GU
(PGA) True-Up.) ORDER NO. PSC-96-0475-CFO-GU
_____) ISSUED: April 5, 1996

ORDER ON CITY GAS COMPANY'S REQUEST FOR
TREATMENT OF AMENDED DECEMBER 1995 PGA FILINGS

On January 22, 1996, 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. The confidential information is found in Document No. 00703-96. On February 19, 1996, Order PSC-96-0225-CFO-GU was issued granting confidential treatment to that document.

On March 8, 1996, City Gas filed a request for confidential treatment of its amended December 1995 PGA filing and an amended Schedule A-2 for its January 1996 PGA filing. This order concerns City Gas' request for confidential treatment of its amended December filing in Document No. 02893-96.

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.

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

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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.

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 of Columns A, B, C, E, F, G of Amended 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 also contends that disclosure of Lines 4 and 18 of Columns A, B, C, E, F, G of Amended 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 of Columns A, B, C, E, F, G of Amended 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.

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 02893-96, 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 5th day of April, 1996.



J. PERRY DEASON, Commissioner and
Prehearing Officer

(S E A L)

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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 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.