

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Purchased Gas Adjustment) DOCKET NO. 960003-GU
(PGA) True-up.) ORDER NO. PSC-96-1166-CFO-GU
_____) ISSUED: September 18, 1996

ORDER ON CITY GAS COMPANY'S REQUEST FOR CONFIDENTIAL TREATMENT
OF PORTIONS OF ITS REVISED APRIL 1996 FILINGS
(Document Nos. 07386-96 and 07613-96)

On May 20, 1996, City Gas Company of Florida (City Gas or the Company) 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, its current month invoices from third party suppliers for natural gas purchases, and its summary of gas invoices. On June 12, 1996, City Gas filed revised Schedules A-1R, A-1 Supporting Detail and A-2. On July 15, 1996, Order No. PSC-96-0903-CFO-GU, was issued granting City Gas's request for confidentiality for portions of its April filings and revised filings.

Also on July 15, 1996, City Gas filed additional revised schedules for its April 1996 PGA filings. On July 18, 1996, City Gas filed another set of revised schedules for its April 1996 PGA filings. These additional, revised schedules are found in Document Nos. 07386-96 and 07613-96. City Gas seeks the same specified confidential treatment for these revised schedules as requested in its original request for confidential treatment of its April 1996 PGA filing. City Gas asserts that the 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.

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

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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.

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.

Based on the foregoing, the information in the lines and columns of City Gas's revised schedules A-1, A-1R, and A-1 Supporting Detail for its April 1996 PGA filing, as found in Document Nos. 07386-96 and 07613-96, shall, therefore, be granted confidential treatment to the same extent granted to those schedules in Order No. PSC-96-0903-CFO-GU, issued July 15, 1996.

City Gas requests that the information that receives confidential treatment not be declassified for a period of 18 months. 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. The request for a confidential classification period of 18 months shall, therefore, be granted.

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 information found in Documents 07386-96 and 07613-96 shall be granted, as discussed in the body of this Order. It is further

ORDERED that the information shall be declassified 18 months from the date of this Order. It is further

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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 18th day of September, 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 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.