



Public Service Commission

-M-E-M-O-R-A-N-D-U-M-

DATE: September 18, 2002
TO: Office of General Counsel (Echternacht)
FROM: Division of Auditing and Safety (Freeman, Vandiver)
RE: Docket 020003-GU, Purchased Gas Adjustment - NUI/City Gas Company

Recommendation concerning the City Gas Company, a Division of NUI Corporation ("NUI/City Gas Company") request for confidential classification for a portion of staff working papers obtained during the audit numbered 02-032-4-2, entitled "City Gas Company Purchased Gas Adjustment Audit for the Year Ended December 31, 2001", Documents numbered 06864-02 and 07325-02

On June 26, 2002, when certain pages of staff's working papers prepared during the audit entitled "City Gas Company Purchased Gas Adjustment Audit for the Year Ended December 31, 2001" were delivered to NUI/City Gas Company at the audit exit conference, the utility requested that these materials be temporary excepted from public access in accordance with the provisions of Rule 25-22.006(3)(a)(2), Florida Administrative Code (FAC).

On July 3, 2002, staff filed document 06864-02, consisting of those pages of the staff working papers identified as sensitive at the audit exit conference.

On July 15, 2002, the utility filed a request pursuant to Section 366.093, Florida Statutes (F.S.), and Rule 25-22.006(3)(a)(2) and (4), that selected pages audit working papers prepared by staff during the audit receive confidential classification. The utility's request includes redacted copies for public inspection (Document 07324-02, Exhibit B) and full and complete copies of this material with the sensitive information highlighted (document 07325-02).

On August 1, 2002, after discussions with the staff, the utility modified its filing in this case correcting technical deficiencies. The modified filings include revised copies for public inspection (Document 08080-02, Exhibit B) and revised copies with the sensitive information highlighted (Document 08081-02). The modifications reduce and do not increase the utility's original request.

On September 16, 2002, after further discussions with the staff, the utility's request was modified for a second time. Once again, the utility reduced the amount of information for which confidential protection was needed. As a result of this second modification confidential document 08081-02 is no longer needed for the Commission to conduct its business.

- US
AF
MP
OM
TR
CR
iCL
)PC
IMS
EC
)TH

DOCUMENT NUMBER-DATE

10161 SEP 23 02

FPSC-COMMISSION CLERK

On September 17, 2002, a recommendation was sent to the Division of the Commission Clerk and Administrative Services advising the Division that document 08081-02 is no longer needed for Commission Business and requesting the Division to return confidential document 08081-02 to NUI/City Gas.

Pursuant to Section 119.07, F.S., documents submitted to this Commission are public records. The only exceptions to this rule are specific statutory exemptions and exemptions granted by governmental agencies to the specific items of a statutory provision. Section 366.093(e), F.S., provides the following exemption:

"Proprietary confidential business information means information, regardless of form or characteristics, which is owned or controlled by the person or company, is intended to be and is treated by the person or company as private in that the disclosure of the information would cause harm to the ratepayers or the person's or company's business operations, 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. Proprietary confidential business information includes but is not limited to:....

(e) Information relating to competitive interests, the disclosure of which would impair the competitive business of the provider of the information...."

According to Section 366.093, F.S., and Rule 25-22.006, FAC, NUI/City Gas Company has the burden of demonstrating that information and materials provided to the staff during the audit qualify for confidential classification. According to Rule 25-22.006, FAC, the utility must meet this burden by demonstrating that the information is proprietary confidential business information, the disclosure of which will cause the utility, the provider of the information or the ratepayer harm.

While this matter is pending, the remaining information identified as sensitive is held as confidential by the Division of Commission Clerk and Administrative Services.

**Staff Analysis of the Request, as modified**

Reading the filing reveals the sensitive audit information consists of:

Customer Specific data (name or location, gas usage, or amount billed);

NUI/City Gas Company asserts that release of this sensitive information would impair and harm their business

The Commission has consistently held customer usage information is "proprietary confidential business information" release of which would cause harm. See Commission Order 22851, dated April 23, 1990; Commission Order 96-1478, dated December 4, 1996, and Commission Order 00-1569, dated August 31, 2000.

**Duration of the Confidential Classification Period**

NUI/City has requested that these materials be held confidential for at least 18 months.

Audit working papers obtained during this type of audit are retained on file by the Commission for 25 years.

Provisions of Section 366.093(4), F.S., absent good cause shown, limit any confidential classification to 18 months. NUI/City Gas has not specified the length of the time and has not provided cause as to why these documents should be protected for a longer period. Without good cause shown for a longer period, we recommend that the period of classification be set as 18 months. As necessary, the utility may request an extension of this period before it tolls.

**Staff Recommendation**

For the reasons presented above, and based upon reading the filing, we recommend the utility's requests be granted and the identified material be granted a confidential classification for 18 months.

A detailed recommendation regarding the material follows:

**Detailed Recommendation, as found**

Staff Work Paper Number	Page(s)	Line(s)	Recommend	Type of Information Classified Confidential
Documents 06864-02 and 07325-02				
41-4/3	1	1-40	Grant	Customer Specific Information
41-4/3	2	1-47	Grant	Customer Specific Information
41-4/3	3	1-46	Grant	Customer Specific Information
41-4/3	4	1-49	Grant	Customer Specific Information
41-4/3	5	1-48	Grant	Customer Specific Information
41-4/3	6	1-52	Grant	Customer Specific Information
41-4/3	7	1-49	Grant	Customer Specific Information
41-4/4	1-20	1-13	Grant	Customer Specific Information

Page 4  
NUI/City Gas Company  
Confidential Protection  
Purchased Gas Adjustment Audit  
September 18, 2002

A temporary copy of this recommendation will be held at I:07325-02.RAF for a short period.

CC: Division of Auditing and Safety (Welch)  
Division of Commission Clerk and Administrative Services (Flynn)