

State of Florida



Public Service Commission
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030004-GU kb

COMMISSION CLERK

DATE: January 7, 2003
TO: Division of Commission Clerk and Administrative Services (Flynn)
FROM: Division of Auditing and Safety (Vandiver, Freeman) WF
RE: Docket 020004-GU, Concerning Confidential Materials Obtained during Audit No. 02-057-4-2, Request to Declassify Documents 08266-02, 08827-02 and 09612-02 and Return Document 08827-02 to the Division of Auditing and Safety

On August 21, 2002, staff filed confidential document 08827-02 consisting of the original version of all sensitive materials obtained by the staff during the audit entitled "City Gas Company of Florida Conservation Cost Recovery Clause Audit for the Historical Year End December 31, 2001, Audit No. 02-057-4-2. These documents were requested by NUI/City Gas Company to be held as temporarily confidential at the audit exit conference in accordance with rule 25-22.006(3)(a)(2), Florida Administrative Code (FAC).

On August 7, NUI/City Gas Company filed confidential document 08266-02, in support of a request for confidential classification for certain portions of the sensitive materials identified during the audit.

On September 10, 2002, after discussions with the staff, the utility filed confidential document 09612-02 in support of a revised request concerning the confidentiality of the sensitive materials identified during the audit.

By letter dated October 11, 2002, after additional discussions with the staff, NUI/City Gas has elected to withdraw its request for confidential protection for all material obtained by the staff during audit 02-057-4-2 (NUI/City Gas letter and defining staff correspondence are attached). We therefore request that documents 08266-02, 08827-02, and 09612-02 be declassified.

In addition, once these documents are declassified, we request that the audit working papers, document 08827-02, be returned to the Division of Auditing and Safety.

- AUS _____
- CAF _____
- CMP _____ Attachments(2)
- COM _____
- CTR _____
- ECR _____ EC: Office of the General Counsel (Holley)
- GCL _____ Division of Auditing and Safety (Welch)
- OPC _____
- MMS _____
- SEC _____
- OTH _____ *Harquente*

DOCUMENT NUMBER DATE
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FPSC-COMMISSION CLERK

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Writer's Direct Dial No.
(850) 425-2313

October 11, 2002

Robert Freeman
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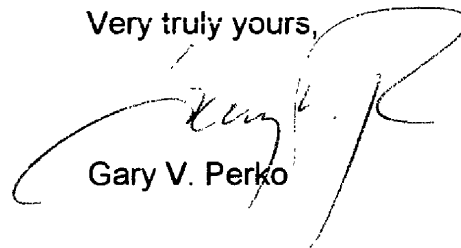
Re: Docket No. 020004-GU, Request for Confidential Classification of Material provided During "Conservation cost Recovery clause Audit of NUI/City Gas company for the Period ended December 31,2001, Audit No. 02-057-4-2

Dear Ms. Bayó:

In response to your letter dated October 2, 2002, City Gas hereby withdraws the above-referenced request for confidentiality.

Please give me a call if you have any questions or comments at 425-2359.

Very truly yours,



Gary V. Perko

GVP/jlm
Enclosures
cc: Certificate of Service

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OCT 15 2002

Florida Public Service Commission
Division of Auditing and Safety

STATE OF FLORIDA

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DIVISION OF AUDITING & SAFETY
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(850) 413-6480

Public Service Commission

October 2, 2002

Gary V. Perko
Hopping Green & Sams
Post Office Box 6526
Tallahassee, Florida 32314

RE: Docket 020004-GU, Request for confidential classification of material provided during "Conservation Cost Recovery Clause Audit of NUI/City Gas company for the period ended December 31, 2001, Audit No. 02-057-4-2

Dear Mr. Perko:

Thank you for your letter of September 24, 2002. Even though NUI/City Gas has withdrawn some material, the utility continues to seek confidential status for "all other items identified in its revised request for confidentiality."

Because of surprising complexity encountered in this case, a summary of staff's position to date concerning the NUI/City Gas request is presented below.

On July 16, 2002, an audit exit meeting was held at the conclusion of staff's audit of the utility's Conservation Cost Recovery Clause program for the year ended 2001, audit number 02-057-4-2. At this meeting, NUI/City Gas asked that 2 pages of the staff's audit report and 24 staff audit working papers be held in a temporary confidential status. On August 7, 2002, the utility requested confidential protection for certain information contained upon 13 pages of the 26 pages of information identified at the July 16 meeting.

Shortly before August 19, 2002, staff found the Miami district staff auditor filed 29 pages of sensitive information. Reading the auditor's sensitive working papers and reading the NUI/City Gas filing revealed (1) 3 pages of sensitive information were not delivered to the utility at the July 16 audit exit conference and (2) all 29 pages of sensitive material identified, according to prior Commission decisions, do not qualify for a confidential classification. Nevertheless, the material remains in a temporary confidential classification until any request is resolved.

On August 19, 2002, staff sent a letter to the utility transmitting the three pages of additional sensitive information filed by the auditor and set the audit exit conference date as August 22, 2002. That letter also described deficiencies within the request and suggested the utility may want to consider withdrawing the filing. Since that time the utility and staff have been working to define the utility's request to avoid a facially deficient filing.

To promote understanding and present the staff's opinion in a more straight forward manner, the table on the following four pages identifies all 29 sensitive pages in numerical order along with staff's opinion as to why the material does not qualify for a confidential classification for one or more of the following reasons.

1) Rule 25-22.006(3)(a)(2), Florida Administrative Code, provides "Absent good cause shown, failure to file a request for confidential protection within 21 days from the date of the audit exit conference constitutes a waiver of confidentiality." For the purpose of this filing, the exit conference date is August 22, 2002. More than 21 days have passed since that date.

2) Section 366.093(3), Florida Statutes, within the definition of "Proprietary Confidential Business Information" provides that confidential information must be kept private. Competitive Rate Adjustment (CRA) information, customer rates, and summary information concerning the conservation cost recovery clause true-up are public record and therefore are not eligible for confidential protection.

3) Section 366.093(3)(f), Florida Statutes, provides that employee information related to compensation, duties, qualifications or responsibilities does not qualify for confidential protection.

a) Interpreting Section 366.093(3)(f), F.S., the Commission has decided that names of utility employees relate to employee duties and therefore do not qualify for confidential protection (Commission Orders 25237 and 25238, dated September 9, 1992, and Commission Order 24226, dated March 12, 1991).

b) Interpreting Section 366.093(3)(f), F.S., the Commission has decided utility employee information related to compensation, duties, qualifications or responsibilities was explicitly identified by the legislature as public information. Thus, employee information is not a trade secret, or business information release of which would cause harm, unless evidence is presented justifying this claim or a prior administrative or court decision is cited justifying this type of claim (Commission Order PSC-92-1280-CFO-WS, dated November 10, 1992).

Note: According to the provisions of Section 366.093(f), F.S., the Commission has held that employee home address, home telephone number and social security number are confidential. However none of this type of information is present in this request.

The detailed staff analysis for the 29 pages of sensitive information covered by this request is presented below.

Page Number	Pages	Material which does not qualify as confidential information
WP 1, page 3 (Audit report page)	1	(3) Name of utility employee(s)
WP 1, page 4 (Audit report page)	1	(3) Name of utility employee(s) (3) Compensation of utility employee(s)
WP 1, page 5 (Audit report page)	1	(1) 21 day time limit exceeded, confidentiality is waived (2) Information in the public record
WP 1, page 6 (Audit report page)	1	(1) 21 day time limit exceeded, confidentiality is waived (2) Information in the public record
WP 13.3, page 3	1	(3) Name of utility employee(s) (3) Compensation of utility employee(s)
WP 41-1/1, page 1	1	(1) 21 day time limit exceeded, confidentiality is waived (2) Information in the public record
WP 41-1/1, page 2	1	(1) 21 day time limit exceeded, confidentiality is waived (2) Information in the public record
WP 41-1/1, page 3	1	(1) 21 day time limit exceeded, confidentiality is waived (2) Information in the public record

Page Number	Pages	Material which does not qualify as confidential information
WP 41-1/1, page 4	1	(1) 21 day time limit exceeded, confidentiality is waived (2) Information in the public record
WP 41-1/1, page 5	1	(1) 21 day time limit exceeded, confidentiality is waived (2) Information in the public record
WP 41-1/1, page 6	1	(1) 21 day time limit exceeded, confidentiality is waived (2) Information in the public record
WP 41-1/1, page 7	1	(1) 21 day time limit exceeded, confidentiality is waived (2) Information in the public record
WP 41-1/1, page 8	1	(1) 21 day time limit exceeded, confidentiality is waived (2) Information in the public record
WP 41-1/1, page 9	1	(1) 21 day time limit exceeded, confidentiality is waived (2) Information in the public record
WP 41-1/1, page 10	1	(1) 21 day time limit exceeded, confidentiality is waived (2) Information in the public record
WP 41-1/1, page 11 (Utility page 1)	1	(2) CRA information which is public record
WP 41-1/1, page 12	1	(1) 21 day time limit exceeded, confidentiality is waived (2) Information in the public record

Page Number	Pages	Material which does not qualify as confidential information
WP 41-1/1, page 13 (Utility page 2)	1	(2) CRA information which is public record
WP 41-1/1, page 14	1	(1) 21 day time limit exceeded, confidentiality is waived (2) Information in the public record
WP 41-1/1, page 15 (Utility page 3)	1	(2) CRA information which is public record
WP 41-1/1, page 16	1	(1) 21 day time limit exceeded, confidentiality is waived (2) Information in the public record
WP 41-1/1, page 17 (Utility page 4)	1	(2) CRA information which is public record
WP 44. Page 2	1	(3) Name of utility employee(s)
WP 44, page 3	1	(3) Name of utility employee(s) (3) Compensation of utility employee(s)
WP 44-2, page 1	1	(3) Name of utility employee(s) (3) Compensation of utility employee(s)
WP 44-2, page 2	1	(3) Name of utility employee(s) (3) Compensation of utility employee(s)
WP 44-2, page 3	1	(3) Name of utility employee(s) (3) Compensation of utility employee(s)
WP 44-2, page 4	1	(3) Name of utility employee(s) (3) Compensation of utility employee(s)

Gary V. Perko
Page 6
October 2, 2002

Page Number	Pages	Material which does not qualify as confidential information
WP 44-2, page 5	1	(3) Name of utility employee(s) (3) Compensation of utility employee(s)


As stated in the top of this letter, NUI/City Gas continues to request confidential status concerning "all other items identified in its revised request for confidentiality." We have read the filing and find that all the information in the utility's requests do not appear to qualify for confidential treatment for the reasons listed above.

The utility may withdraw its requests for confidentiality in this docket within the next 10 days or the utility may specifically identify items by page and line for which it requests confidentiality and provide additional justification.

After this 10 day period tolls, a recommendation concerning this request for confidential protection will be forwarded based upon the information present in the record. If you have any further questions regarding this matter, please contact either me at (850) 413-6485 or staff attorney Lorena Holley at (850) 413-6185.

Thank you for your concern in this matter.

Sincerely,


Robert Freeman
Government Analyst II

CC: Office of General Counsel (Holley)
Miami District Office (Welch)