



Public Service Commission

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

DATE: September 16, 2003
TO: Office of General Counsel (Fleming) F OW
FROM: Division of Auditing and Safety (Freeman, Vandiver)
RE: Docket 030003-GU, Recommendation concerning City Gas Company of Florida Company's, a division of NUI Corporation (NUI/City Gas), request for confidential classification concerning a portion of the staff's working papers obtained during the preparation of "City Gas Company of Florida Purchased Gas Adjustment Audit for the Twelve Months Ended December 31, 2002", Audit Control No. 03-063-4-3, Documents Numbered 05992-03 and 06365-03

On July 1, 2003, when copies of certain portions of staff's working papers obtained or prepared during the "City Gas Company of Florida Purchased Gas Adjustment Audit for the Twelve Months Ended December 31, 2002", were delivered to NUI/City Gas at the audit exit conference, the utility requested that these materials be temporarily exempted from public access in accordance with the provisions of Rule 25-22.006(3)(a)(2), Florida Administrative Code (FAC).

On July 7, 2003, staff filed document 05992-03 consisting of those specified portions of the working papers.

On July 17, 2003, NUI/City Gas filed a request pursuant to Section 366.093, Florida Statutes (F.S.), and Rule 25-22.006(3)(a)(2.) and (4), FAC, that selected portions of the staff working papers prepared during the audit receive confidential classification. The utility's request includes redacted copies for public inspection (Document 06366-03) and highlighted copies (document 06365-03).

Documents 05992-03 and 06365-03 are currently held by the Commission's Division of the Commission Clerk and Administrative Services as confidential pending resolution of the NUI/City Gas' request for confidential classification.

Pursuant to Section 119.07, F.S., documents submitted to this Commission are public records. The only exceptions to this law are specific statutory exemptions and exemptions granted by governmental agencies pursuant to the specific items of a statutory provision. Subsection 366.093(3)(e), F.S. provides the following exemption:

DOCUMENT # _____ DATE

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FPSC-COMMISSION CLERK

“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, the utility has the burden of demonstrating that materials 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.

Staff Analysis of the Request

Reading the NUI/City filing reveals the sensitive materials consist of:

Customer specific data (name or location, gas usage, amount billed, etc.)

NUI/City Gas asserts disclosure of this information would cause harm to the Company’s business operation and would impair the competitive business interests of the Company. This information is contained within staff working papers entitled “Customer bills to be tested.”

Section 366.093(3)(d), F.S., provides an exemption from public access for sensitive competitive information release of which would impair the public utility or its affiliates to contract for goods and services.

Duration of the Confidential Classification Period

NUI/City Gas requests that this material granted a confidential classification for at least 18 months. We note the Commission staff’s audit working papers for this type of audit are retained on file by the Commission for 25 years.

According to the provisions of Section 366.093(4), F.S., absent good cause shown, confidential classification is limited to 18 months. Without cause shown for a longer period, we recommend that the period of confidential classification be set as 18 months. As deemed necessary, the utility may request an extension of the confidential classification before the period tolls.

Staff Recommendation

Based upon reading the filing, and for the reasons presented above, we recommend, as found, the utility's request be granted and that 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)	Lines	Recommend	Type of Information Classified Confidential
41-6/2	1	1,3-18,20-30,32-44, 47-57	Grant	Sensitive competitive information concerning customer specific data
41-6/2	2	1-11,13-26,28-40, 42-53, 55-58	Grant	Sensitive competitive information concerning customer specific data
41-6/2	3	1-3,5-18,20-33,35-48, 50-55	Grant	Sensitive competitive information concerning customer specific data
41-6/2	4	1-4,6-19,21-33,35-48, 51-57	Grant	Sensitive competitive information concerning customer specific data
41-6/2	5	1-15,17-29,31-42, 44-56	Grant	Sensitive competitive information concerning customer specific data
41-6/2-1	1	1-4,5-8,10-13,17	Grant	Sensitive competitive information concerning customer specific data
41-6/2-2	1	1-4,5-8,10-13,17	Grant	Sensitive competitive information concerning customer specific data
41-6/2-3	1	1-4,5-8,10-13,17	Grant	Sensitive competitive information concerning customer specific data

Staff Work Paper Number	Page(s)	Lines	Recommend	Type of Information Classified Confidential
41-6/2-4	1	1-4,5-8,10-13,17	Grant	Sensitive competitive information concerning customer specific data
41-6/2-5	1	1-4,5-8,10-13,17	Grant	Sensitive competitive information concerning customer specific data
41-6/2-6	1	1-4,5-8,10-13,17	Grant	Sensitive competitive information concerning customer specific data
41-6/2-7	1	1-4,5-8,10-13,17	Grant	Sensitive competitive information concerning customer specific data
41-6/2-8	1	1-4,5-8,10-13,17	Grant	Sensitive competitive information concerning customer specific data
41-6/2-9	1	1-4,5-8,10-14,17	Grant	Sensitive competitive information concerning customer specific data
41-6/3	1	1-14,16-27,29-43,45-53	Grant	Sensitive competitive information concerning customer specific data
41-6/3	2	1-9,11-22,24-41,43-56,58	Grant	Sensitive competitive information concerning customer specific data
41-6/3	3	1-8,10-21,23-36,38-50	Grant	Sensitive competitive information concerning customer specific data
41-6/3	4	1-20,22-35,37-49	Grant	Sensitive competitive information concerning customer specific data
41-6/3	5	1-7,9-26,28-39,41-52,54-55	Grant	Sensitive competitive information concerning customer specific data

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41-6/3-4	1	1-4,5-13,17	Grant	Sensitive competitive information concerning customer specific data
41-6/3-5	1	1-4,5-8,10-13,17	Grant	Sensitive competitive information concerning customer specific data

A temporary copy of this recommendation will be held at I:06365-03.city.raf.wpd for a short period.

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