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July 25, 2016

BY HAND DELIVERY

Ms. Callotta Stauffer, Director
Office of the Commission Clerk
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

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2016 JUL 25 AM 9:17
COMMISSION CLERK

Re: Docket No. 160175-GU

REDACTED

Dear Ms. Stauffer:

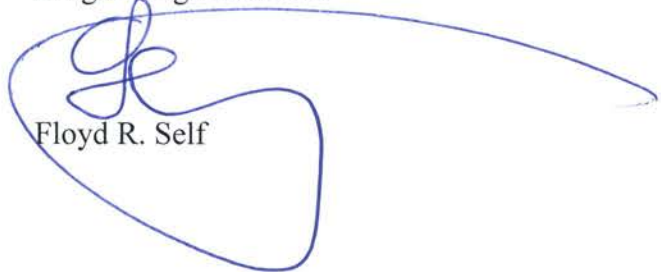
Enclosed for filing are an original and seven copies of the Florida City Gas ("FCG") Request for Confidential Classification ("Request") which contains the confidential documents associated with FCG's Petition for Review and Determination and Approval of an Interim Service Arrangement filed in this docket on July 22, 2016. Included with this Request in a sealed envelope marked "CONFIDENTIAL" is one highlighted copy of each confidential document or Petition page along with a CD-ROM. Also attached are two redacted copies of the referenced documents for which confidential classification is sought.

An extra copy of this letter is enclosed. Please date stamp this copy and return it to me.

Thank you for your assistance with this filing. If you have any questions, please contact me directly.

Sincerely,

Berger Singerman LLP



Floyd R. Self

- COM _____
- AFD _____
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- IDM _____
- TEL _____
- CLK _____

FRS:AM
Enclosures

BEFORE THE PUBLIC SERVICE COMMISSION

In Re: Petition for Review and)
Determination on the Project Construction)
and Gas Transportation Agreement By and) Docket No.: 160175-GU
Between NUI Utilities, Inc. d/b/a City Gas)
Company of Florida and Florida Crystals) Filed: July 25, 2016
Corporation dated April 24, 2001 and)
Approval of an Interim Service Arrangement)
_____)

**FLORIDA CITY GAS
REQUEST FOR CONFIDENTIAL CLASSIFICATION
PETITION EXHIBITS 1, 2, AND 3 AND PETITION PAGES**

Florida City Gas (“FCG” or “Company”), by and through its undersigned counsel, and pursuant to Section 366.093, Florida Statutes, and Rule 25-22.006(4), Florida Administrative Code, hereby files this Request for Confidential Classification (“Request”) for Exhibits 1, 2, and 3 to the Petition for Review and Determination and Approval of an Interim Service Arrangement filed in this docket on July 22, 2016, along with the corresponding Petition pages that contain confidential information from Exhibits 1, 2, or 3 of the Petition and a CD-ROM containing the unlocked native Excel spreadsheets for Petition Confidential Exhibits 2 and 3. In support of this Request, FCG states as follows:

1. On July 22, 2016, FCG petitioned this Commission to determine that the Project Construction and Gas Transportation Agreement By and Between NUI Utilities, Inc. d/b/a City Gas Company of Florida and Florida Crystals Corporation dated April 24, 2001 (“GTA”) is not a legally effective or enforceable special contract under Florida law. Recognizing the unique service conditions for Florida Crystals, FCG also requested that the Commission approve, as an

interim service arrangement, certain rates, terms, and conditions that should remain in effect until this Commission approves a successor transportation service special contract that complies with Florida law or issues such other final order regarding the interim service arrangement.

2. In support of the Petition, FCG filed three attachments which can be summarized as follows:

a. Exhibit 1. This is the GTA between the parties dated April 24, 2001. By its terms, the GTA is a confidential agreement between the parties. Moreover, while never previously filed and approved by the Commission, it contains and is based upon customer specific information regarding rates, terms, and conditions of service arrangements. Because of the unique nature of this document, FCG is requesting that at this time the entire document be held as confidential.

b. Exhibit 2. This is the revenue requirements study FCG prepared in order to assess the historic service information as well as forecasted volumes and revenues under the Extended Term of the GTA. This document contains the results of FCG's confidential cost of service study and customer specific information regarding volumes of gas transported on an historic and projected basis pursuant to the confidential GTA, FCG's revenue requirement associated with service to Florida Crystals, the actual or forecasted margin for such service, whether the revenue exceeds the revenue requirement, and that actual revenue received from Florida Crystals on a yearly basis.

c. Exhibit 3. This is the revenue requirements analysis that backs up Exhibit 2 and which also provides the cost support for the proposed interim service arrangement. These spreadsheets contain FCG's proprietary information regarding the margin reserve analysis and the cost to serve analysis supporting the interim special service arrangement

that FCG is proposing until such time as the parties are able to negotiate a new, special service contract or the PSC issues such other appropriate order. The rate analyses are based upon the specific volume and service characteristics associated with service to Florida Crystals.

3. In addition to these three confidential documents attached to the Petition, various parts of the Petition itself report or discuss some of the information contained in Exhibits 1, 2, and 3 to the Petition. In order to maintain the confidentiality of the underlying GTA, the Revenue Requirement Study, and the Revenue Requirements analysis, FCG has identified these parts of the Petition as confidential and such confidential information has been redacted from the public version of the Petition filed July 22, 2016.

4. The GTA, the Revenue Requirement Study, and the Revenue Requirements each meet the statutory requirements for (1) trade secrets (Section 366.093(3)(a)), (2) information concerning contractual data which if disclosed would impair the efforts of FCG to negotiate with other large volume customers (Section 366.093(3)(d)), and (3) competitive information the disclosure of which would impair the competitive business of FCG to acquire and serve other large scale natural gas transportation customers who usually have alternative fuel sources or who can fund transportation bypass alternatives (Section 366.093(3)(e)). The information on these three Petition Exhibits constitutes "proprietary confidential business information" entitled to protection under Section 366.093, Florida Statutes, and Rule 25-22.006(4), Florida Administrative Code. If other customers had access to this information FCG would be at a competitive disadvantage in seeking to negotiate contract specific rates, terms, and conditions as those customers would have access to FCG's cost study and methodology, FCG's cost to serve, FCG's revenue requirements, customer-specific contract terms including rates, and a deep

understanding as to how FCG analyzes and calculates customer-specific rates. All of this type of information has been previously determined by the PSC to be confidential and exempt from public disclosure. *See, e.g.*, Order No. PSC-15-0505-CFO-GU (October 27, 2015); Order No. PSC-15-0162-CFO-GU (April 30, 2015); Order No. PSC-15-0163-CFO-GU (April 30, 2015); Order No. PSC-15-0164-CFO-GU (April 30, 2015); Order No. PSC-15-0165-CFO-GU (April 30, 2015); Order No. PSC-13-0246-CFO-GU (June 4, 2013). Because the confidential information in the Petition is the same information from the GTA, the Revenue Requirement Study, and Revenue Requirements analysis, the same justifications for those three exhibits would equally apply to the Petition pages that use or reflect this confidential information in the exhibits.

5. Attachment 1 to this Request consists of a chart that specifically sets forth the identification and line-by-line justification for maintaining the three Petition exhibits and the corresponding Petition pages as confidential. To be clear, the information identified as confidential has not been released to the public, and is treated by FCG as private, confidential information, the release of which could have an adverse impact on the business operations and future contract rate negotiations. The subject information is therefore proprietary confidential business information and is entitled to protection under Section 366.093, Florida Statutes, and Rule 25-22.006, Florida Administrative Code.

6. Attached to this Request is an envelope marked "CONFIDENTIAL" containing one copy of each of the confidential documents for which the confidential information is highlighted – i.e., the GTA, the Revenue Requirement Study, the Revenue Requirements analysis, and the applicable Petition pages – along with a CD-ROM containing the unlocked Excel spreadsheets that are Petition Exhibits 2 and 3. Two public, redacted versions of the confidential information are also provided with this Request. The Petition as publically filed was

a redacted copy utilizing the same redacted pages as are included with this Request.

7. Pursuant to Section 366.093(4), Florida Statutes, and Rule 25-22.006(9), Florida Administrative Code, FCG requests that the information described above as proprietary confidential business information be protected from disclosure for a period of at least 18 months and all information be returned to FCG as soon as the information is no longer necessary for the Commission to conduct its business.

WHEREFORE, Florida City Gas requests that confidential classification be granted to the confidential information presented in Confidential Petition Exhibits 1, 2, and 3, the corresponding Petition pages containing confidential information, and the CD-ROM and the two Excel files reflecting Confidential Petition Exhibits 2 and 3.

Respectfully submitted,

s/ Floyd R. Self
Floyd R. Self, B.C.S.
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Counsel for Florida City Gas

Attachment 1
 FCG Request for Confidential Classification, July 22, 2016
 Line-by-Line Justification
 Docket No. 160175

DOCUMENT	PAGE NO(S).	COLUMNS	LINE NO(S).	STATUTORY JUSTIFICATION
Petition Exhibit 1, <i>Project Construction and Gas Transportation Agreement By and Between NUI Utilities, Inc. d/b/a City Gas Company of Florida and Florida Crystals Corporation</i> dated April 24, 2001 ("GTA")	Pages 1-46 (entire document)	N/A	N/A	This is the natural gas transportation service agreement between FCG and Florida Crystals. By its terms, it is to be held and treated as confidential. This document reflects trade secrets of FCG, including rates, terms, and conditions of service that are not available to any other customer. Such customer-specific information is not released to the public and if disclosed, would harm FCG and Florida Crystals. If the rates and other terms were made public, such disclosure would harm FCG's competitive interests by impairing the ability to negotiate future special contracts with other customers.
Petition Exhibit 2, FCG Revenue Requirement Study	Page 1 (entire document)	A-G	1-41	This document contains FCG's compilation of actual, budgeted, and forecasted natural gas volumes transported or estimated to be transported by FCG for Florida Crystals. In addition it includes on a year-by-year basis FCG's Revenue Requirement, FCG's Actual or Forecasted Margin/Revenue, whether FCG's revenues exceed or fall below FCG's revenue requirement, and the actual revenue received from Florida Crystals for each year. This type of customer-specific volumes and revenues and customer-specific margin information is not released to the public, including the customer it is derived from. This information, if made public, would negatively impact the competitive interests of the company (and hence FCG's ratepayers) in the company's negotiations of other service agreements. Moreover, this would be an unfair and inappropriate disclosure of customer information. Finally, this information is based upon FCG trade secret information in terms of the method of calculation such revenue requirements and margins.

<p>Petition Exhibit 3, Revenue Requirements</p> <p>FCG's Confidential MDWASD Bypass Analysis</p>	<p>Page 1 Page 2 Page 3 Page 4 Page 5 Page 6 Page 7 (entire document)</p>	<p>A-D A-D A-G A-G A-C A-E A-D</p>	<p>1-39 1-23 1-42 1-34 1-17 1-40 1-68</p>	<p>The proprietary information presented in this document includes the backup calculations for the information presented in Petition Confidential Exhibit 2 as well as the proposed interim service arrangement rates and how such rates were calculated. These analyzes are based upon the unique customer-specific volumes and revenues and customer-specific margin information presented in Confidential Petition Exhibit 2. This information is not released to the public, including the customer it is derived from. This information, if made public, would negatively impact the competitive interests of the company (and hence FCG's ratepayers) in the company's negotiations of other service agreements. Moreover, this would be an unfair and inappropriate disclosure of customer information. Finally, this information is based upon FCG trade secret information in terms of the method of calculation such revenue requirements and margins.</p>
<p>Petition Pages 9, 10, 11, 12, 13, 17, 18, 19, 20, 21</p>	<p>Page 9 Page 10 Page 11 Page 12 Page 13 Page 17 Page 18 Page 20 Page 21</p>	<p>N/A</p>	<p>11-21 1-16, 18, 22- 28 1-4, 7- 11, 15- 21 1-4 1-12 20-21 1-5. 15-19 17-23 1-14</p>	<p>The proprietary information presented on these pages is either directly quoted or drawn from information presented in Petition Confidential Exhibits 1, 2, and 3. Contact terms are from Confidential Exhibit 1. Historic and forecasted volumes, revenue requirements, margins, net revenue requirements, and actual revenue are from Petition Confidential Exhibit 2. The backup methodology for Petition Confidential Exhibit 2 and the proposed interim service arrangement rates are drawn from Petition Confidential Exhibit 3.</p>
<p>CD-ROM containing the native unlocked Excel spreadsheets for Petition Confidential Exhibits 2 and 3</p>				<p>Justification is the same as above.</p> <p>Petition Confidential Exhibit 2 is: Revenue Requirement Study</p> <p>Petition Confidential Exhibit 3 is: Revenue Requirements</p>

Petition for Review and Determination
and Approval of an Interim Service
Arrangement

July 22, 2016

Confidential Exhibit No. 1:

April 21, 2001 GTA

Redacted Version:

46 Page Document

Redacted in its Entirety

Petition for Review and Determination
and Approval of an Interim Service
Arrangement

July 22, 2016

Confidential Exhibit No. 2:
Revenue Requirement Study

Redacted Version:
1 Page Spreadsheet
Redacted in its Entirety

Petition for Review and Determination
and Approval of an Interim Service

Arrangement

July 22, 2016

Confidential Exhibit No. 3:

Revenue Requirements

Redacted Version:

7 Page Spreadsheet

Redacted in its Entirety

22. As a starting point, the GTA presents two alternative operating situations. There is what could be described as the main provisions on rates and terms and there is a secondary set of rates and terms that are to be applicable in the event the Gulfstream Project is placed into service. While the Gulfstream pipeline was constructed and put into service, FCG never connected to the Gulfstream Project, so the rates and terms in the GTA associated with the Gulfstream Project are inapplicable and have never been acted upon by the parties.

23. With respect to non-Gulfstream rates and terms, the GTA sets forth three time-periods of service. These are identified as the Primary Term, the Make-Up Period, and the Extended Term. Each of these three time periods have their own rates and terms as is more fully described below:

a. **Primary Term/Take-or-Pay Obligation:** [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

¹¹ GTA Section 3.

¹² This is discussed more fully in paragraphs 24 and 25.

b. **Make-Up Period/Deferred Quantities.** [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

c. **Extended Term.** [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

¹³ GTA Section 9.C.

¹⁴ [REDACTED]

¹⁵ See GTA Section 9.B. Confidential Exhibit 2 reflects the actual quantities of gas transported for each year of service under the GTA.

¹⁵ Again, these dates are FCG's best projections of the timeframe within which the parties have been operating under the GTA, [REDACTED]

[REDACTED]

¹⁶ [REDACTED]

[REDACTED]

24. An additional issue with the GTA is that it does not provide a specific start date. Rather, the triggering event for service is completion of construction of the lateral line to serve the Okeelanta Facility and notice to Florida Crystals of such completion. [REDACTED]

[REDACTED]

25. FCG could not locate any specific correspondence indicating whether the notice to Florida Crystals was provided that triggered the effective date of the GTA. However, in analyzing its billing records, FCG has determined that the first bill rendered to Florida Crystals

[REDACTED]

26. [REDACTED]

¹⁷ GTA Section 3.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

19

27. In addition to standard contractual language on such issues as confidentiality and indemnification, there are numerous other terms of the GTA. These other sections include rate limitations based upon actual construction costs for the lateral to serve Florida Crystals (Section 9.A.), Call Rights (Section 9.E.) Conversion Costs (Section 10), Damages In The Event of Default (Section 15), and Most Favored Nation (Section 16) terms.

28. Once FCG had a good working knowledge of the GTA's terms, FCG undertook a financial analysis to determine whether the GTA properly recovered its costs and what the economic effects of the GTA would be at the rates and volumes of the Extended Term. This is discussed in the next section

V. Revenue-Cost Requirements Analysis

29. The revenue-cost analysis is provided in Confidential Exhibit 2 to this Petition. Overall, for the first 15 years, the analysis indicates that the GTA's total revenues exceed its total costs. However, for the projected 15 years of the Extended Term, the analysis indicates that costs substantially exceed revenues, and that the total loss of net revenues is very significant.

30. For the first 15 years of the GTA, the Primary Term and the Make-Up Period, the analysis utilizes the actual gas volumes transported with 2016 using the projected maximum volume permitted, which is consistent with the volumes transported the prior couple of years.

¹⁸ GTA Section 8.

¹⁹ GTA Sections 9.A.-C.

[REDACTED]

31. However, for the Extended Term, the negative results are significant. [REDACTED]

[REDACTED]

[REDACTED] From this analysis, FCG concluded that providing service on these terms is not appropriate. FCG decided that with the complete picture, it must seek the PSC's review and action on the GTA.

VI. Regulatory Analysis

32. FCG has determined from a diligent review of its records and the PSC's docket files that the GTA was never submitted to or approved by the PSC. Florida law requires that the PSC approve all rates for natural gas public utilities before they may be effective. Specifically, Section 366.06(1), Florida Statutes, provides:

Rates; procedure for fixing and changing.—
(1) A public utility shall not, directly or indirectly, charge or receive any rate not on file with the commission for the particular class of service involved, and no change shall be made in any schedule. All applications for changes in rates shall be made to the commission in writing under rules and regulations prescribed, and the commission shall have the authority to determine and fix fair, just, and reasonable rates that may be requested, demanded, charged, or collected by any

Section 1 of the GTA, "Definitions," the term "Tariff" is defined to mean "the Company's [FCG's] effective Tariff as filed with, and approved by, the FPSC."

40. The relevance of the tariff is further addressed in Section 7, page 10 of the GTA in "Applicability of Tariff." This Section provides, "The Service provided by Company to Customer hereunder is expressly subject to and governed by the terms and conditions of the Company's Tariff, and specifically the Rules and Regulations and the KTS rate schedule contained therein, *as any or all may be modified and made effective from time-to-time.*" [Emphasis added.] This Section continues by stating that the service being provided is subject to "Section 12 – 'Transportation – Special Conditions' of the Rules and Regulations of the Tariff, *as the same may be modified or superseded.*" [Emphasis added.] This section also establishes a priority order for potential conflicts between documents, establishing first the GTA, then the KTS rate schedule, and finally "other terms of the Tariff." Finally, this Section states that the "KTS rate schedule provides for a negotiated rate structure" and that the parties relied upon the rates and charges in the CI-LVT ("GTA Interruptible – Large Volume Transportation") rate schedule, "*as the same may be modified or superseded,* in accordance with the terms of this Agreement."²⁵

41. At the time the GTA was executed, the KTS tariff provided that the Company and customer could negotiate a transportation charge, but that the rate negotiated could not be less than \$0.01 per therm and that the rate "*shall not be set lower than the incremental cost the Company incurs to serve the customer.*" [Emphasis added.] [REDACTED]

[REDACTED]

²⁵ Emphasis added. The CI-LVT schedule was completely eliminated in the 2003 rate case. Order No. PSC-04-0128-PAA-GU, at 65-66 (February 9, 2004).

[REDACTED]

42. There is nothing to indicate that the parties utilized the Alternative Fuel Discount to determine any of the rates in the GTA. But even if they did, the CI-LVT schedule required that the customer had to make a quarterly filing reflecting the appropriate alternative fuel price information in order to calculate the appropriate discount. There is no evidence this was ever done.

43. While on their face the rates for the Primary Term and the Make-Up Period have some colorable relationship to the tariff, for the Extended Term rates do not have any connection to the tariff, and FCG has not located any original economic analysis or justification for these rates. There are a number of different things that impact the rates during the Extended Term, but at their most basic level the rates can be summarized as [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

44. FCG notes that while for many years the GTA did not recover its costs, the

²⁶ There are additional provisions regarding annual rate adjustments, rate caps, and call rights that can impact these rates going forward, but the level of rate increases is constrained in future years, meaning the extent to which the service is below cost will likely be greater than what FCG has calculated in Confidential Exhibit 2.

FCG's general body of ratepayers. Based upon recent experience, FCG's transportation service for Florida Crystals can be net profitable at rates below the tariff rate. At the time FCG had its last rate case in 2003, the service volume rate classes in the tariff simply did not contemplate a customer of the size of Florida Crystals at the volumes set forth in the GTA. If FCG were to restructure its rate classes for a customer like Florida Crystals, there likely would be one or more volumetric rate classes with volumes greater than the present GS 1,250k Schedule and the rates for such classes would be lower than those in the present GS 1,250k Schedule.

47. In view of the potential transportation volumes associated with Florida Crystals, FCG believes that the application of GS 1,250k rate would be inappropriate to Florida Crystals and likely result in Florida Crystals bypassing or otherwise leaving FCG. As a provisional measure – until the parties negotiate a special contract that would be filed reviewed, and approved by the PSC or the PSC issues some other applicable final order – FCG has prepared an analysis that is contained in Confidential Exhibit 3 for an alternative, interim rate arrangement for Florida Crystals. Pursuant to that Confidential Exhibit 3 analysis, FCG hereby proposes that the Commission approve an interim special service arrangement that would contain the following rates, terms, and conditions:

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

48. To the extent not addressed by the foregoing, the terms and conditions of the GS 1,250k Schedule shall apply and to the extent not addressed by the GS 1,250k Schedule, any other applicable FCG tariff terms not in conflict with the foregoing.

49. The PSC shall retain continuing jurisdiction over this interim service arrangement. The PSC may entertain requests by either party to reform, extend, or terminate this interim service arrangement as may be required by any statute, rule, or order of the PSC, changed facts or circumstances, or FCG's tariff in the public interest.

50. FCG would work with the Commission Staff to develop the specific regulatory framework for this interim service arrangement (e.g., a tariff or some other appropriate