

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Purchased Gas Adjustment) DOCKET NO. 970003-GU
(PGA) True-up.) ORDER NO. PSC-97-0485-CFO-GU
_____) ISSUED: April 28, 1997

ORDER GRANTING CITY GAS COMPANY'S REQUEST
FOR CONFIDENTIAL CLASSIFICATION OF CERTAIN PORTIONS OF
ITS ANNUAL GAS COST ESTIMATES
(DOCUMENT NO. 00384-97)

On January 13, 1997, City Gas Company of Florida ("City Gas" or "Company") filed a request for specified confidential classification of certain line items in its Schedules E-1, E-1R, E-2, and E-3. City Gas asserts that the information for which confidential classification is sought is intended to be and is treated by City Gas as proprietary and has not been publicly disclosed. The confidential information is found in Document No. 00384-97.

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.

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 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 the Company to contract for goods or services on favorable terms; thus, the following information should be given confidential treatment.

DOCUMENT NUMBER-DATE

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City Gas requests confidential treatment for the information at lines 28 and 31, columns A - M of Schedules E-1 and E-1R. This information contains City Gas' estimated Weighted Average Cost of Gas (WACOG). City Gas argues that dissemination of this information could adversely influence the Company's ability to effectively negotiate for low-cost gas supplies. City Gas asserts that if gas suppliers know the Company's WACOG, they may tend to quote future gas prices at or above the weighted level. Likewise, City Gas asserts, vendors who previously supplied gas to the Company at prices below the average cost could tend to resist making future price concessions. City Gas argues that ratepayers could face higher gas costs as a consequence.

City Gas also requests confidential treatment for the information at lines 4 and 18, columns A - M of Schedules E-1 and E-1R. City Gas argues that disclosure of this information will allow suppliers to derive the price that the Company estimates it will pay third-party suppliers. Dividing line 4, "Cost of Gas Purchased," by line 18, "Therms Purchased," yields the WACOG that appears on line 31. As explained above, City Gas argues that publication of the information on line 31 could diminish the Company's ability to constructively negotiate for gas supplies. Therefore, according to City Gas, any information that could provide competitors with the contents of line 31 should be granted confidentiality.

City Gas further requests confidential treatment for the information at lines 1-8 and 15-22, columns A - M of Schedules E-1 and E-1R. City Gas states that this information includes components of arithmetical calculations used to derive the per therm price of gas. City Gas argues that disclosure of these numbers is reasonably likely to impair the Company's efforts to contract for goods and services on favorable terms. The Company also requests confidential treatment for Schedule E-1, Supporting Details, with respect to the columns titled "Therms," "Invoice Amount," and "Cost Per Therm." City Gas states that this schedule shows the derivation and arithmetic manipulation of information of Schedules E-1 and E-1R. City Gas argues that publication of these supporting details would also impair the Company's efforts to contract for goods and services on favorable terms.

City Gas requests confidential treatment for the information at all lines, columns E - L of Schedule E-3. City Gas states that this information represents negotiated gas supply packages that the Company plans to purchase throughout the year from different vendors. City Gas states that these prices vary according to the operational flexibility of each contract. Accordingly, City Gas argues, release of any information therein would be detrimental to

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the interests of the Company and its customers since it would provide competitors with a list of City Gas' suppliers, volumes purchased, and respective costs. City Gas claims that publication of this information would impair the Company's efforts to contract for goods and services on favorable terms.

City Gas also requests confidential treatment for the information at lines 1-3 and 7, columns A - M of Schedule E-2. According to City Gas, the information at lines 1-3, columns A - H, received confidential classification through the Company's monthly PGA filings and should maintain that status. City Gas argues that the information at lines 1-3 and 7, columns I - M, contain components that may easily be manipulated to determine the price that the Company pays for gas, and, therefore, should not be made public.

I find that the information discussed above is proprietary confidential business information and should be given confidential treatment to avoid harm to City Gas and its ratepayers. City Gas requests that this information 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 information in Document No. 00384-97 for which confidential treatment was requested shall be treated as proprietary confidential business information to the extent discussed above. It is further

ORDERED that the information discussed above shall be afforded confidential treatment for a period of 18 months from the issuance date of this Order. It is further

ORDERED that this Order will be the only notification by the Commission to the parties concerning the expiration of the confidentiality time period.

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By ORDER of Commissioner J. Terry Deason, as Prehearing Officer, this 28th day of April, 1997.



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 120.569(1), 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 25-22.0376, 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.