

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for authority
to issue and sell securities
during 12 months ending 6/30/97
by City Gas Company of Florida.

DOCKET NO. 960547-GU
ORDER NO. PSC-97-0822-FOF-GU
ISSUED: July 8, 1997

The following Commissioners participated in the disposition of this matter:

J. TERRY DEASON
SUSAN F. CLARK
JOE GARCIA

FINAL ORDER GRANTING MOTION FOR CLARIFICATION AND
GRANTING APPLICATION FOR RENEWAL OF AUTHORITY TO ISSUE AND SELL
SECURITIES FOR THE THREE MONTH PERIOD ENDING SEPTEMBER 30, 1997

BY THE COMMISSION:

CASE BACKGROUND

City Gas Company of Florida (City Gas or Company), a division of NUI Corporation (NUI), filed an application on April 30, 1996 seeking Commission approval to issue and sell equity securities, long-term debt obligations, and short-term indebtedness, not to exceed \$80 million in the aggregate, during the twelve-month period ending June 30, 1997.

By Order No. PSC-96-0846-FOF-GU, issued July 2, 1996 (and as amended in Order No. PSC-96-0846A-FOF-GU, issued July 9, 1996), the Commission approved the Company's application. Further, its modified application, allowing NUI to apply a portion of the proceeds of the securities for the acquisition of a 49% interest in T.I.C. Enterprises, Inc. to be converted into a limited liability company, was approved in Order No. PSC-97-0553-FOF-GU, issued May 15, 1997.

On June 6, 1997, City Gas filed a Motion for Clarification of Orders Nos. PSC-96-0846-FOF-GU, PSC-96-0846A-FOF-GU, and PSC-97-0553-FOF-GU. On June 16, 1997, City Gas filed an Application for Authority for NUI Corporation to Issue and Sell Securities for the three months ending September 30, 1997. On June 20, 1997, notice of the Company's Motion for Clarification and Application for renewal

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for authority for NUI Corporation to Issue and Sell Securities for the three-month period ending September 30, 1997 were published in the Florida Administrative Weekly, indicating that the Commission would consider the requests at a Special Agenda Conference to be held on July 7, 1997.

Motion for Clarification

City Gas asserts that the intent of the Commission in Orders Nos. PSC-96-0846-FOF-GU, PSC-96-0846A-FOF-GU, and PSC-97-0553-FOF-GU was to grant the authority specifically requested in its applications, and that the inclusion of short-term indebtedness in the list of securities subject to the \$80 million cap was inadvertent and unintentional.

By Order No. PSC-96-0846-FOF-GU, we approved City Gas' application. A scrivener's error was corrected in Order PSC-96-0846A-FOF-GU. In the ordering paragraphs, the Commission granted City Gas' request for permission to exceed the usual limitation on short-term indebtedness, as long as the total does not exceed 25% of the par value of other outstanding securities. However, in a separate ordering paragraph, the Commission granted authority to issue long-term debt, equity and short-term debt not to exceed \$80 million dollars "in the aggregate". Furthermore, in Order No. PSC-97-0553-FOF-GU, issued May 15, 1997, the Commission granted the Company's request to apply proceeds to the acquisition of the interest in T.I.C. In its Order, the Commission again authorized City Gas to issue short-term indebtedness up to, but not exceeding, 25% of the par value or the other outstanding securities of NUI Corporation as requested in the application. However, it also included short-term debt in the securities subject to the \$80 million cap.

Our intent was to grant the authority specifically requested in City Gas' applications, and that the inclusion of short-term indebtedness in the list of securities subject to the \$80 million cap was inadvertent and unintentional.

Therefore, we grant City Gas' Motion For Clarification. Our intent in Orders Nos. PSC-96-0846-FOF-GU, PSC-96-0846A-FOF-GU, and PSC-97-0553-FOF-GU was to authorize City Gas to issue and sell equity securities and long-term debt obligations not to exceed \$80 million dollars in the aggregate, exclusive of short-term debt, and to issue short-term indebtedness up to, but not exceeding, 25% of

the par value or the other outstanding securities of NUI Corporation.

Renewal of Authority to Issue and Sell Securities

NUI asserts that the total proceeds from these transactions will be used to enable it to manage and operate its utility businesses in a manner insuring reliable and economical service for all of its customers. The proceeds of the industrial revenue bond transactions will be used to finance components of NUI's construction programs or to refund previously issued industrial development revenue bonds at more favorable interest rates and terms. The proceeds from the transactions on the medium-term notes will be added to the general business funds. These proceeds will also be used to help finance NUI's construction programs, as well as to reacquire any of NUI's outstanding debt securities, to reimburse the treasury for expenditures against which securities have not been issued, to refund previously issued securities at more favorable interest rates and terms, and for other corporate purposes.

In addition, during periods when interest rates on short-term indebtedness are favorable relative to the cost of alternative sources of capital, NUI asserts that it often chooses to do its financing on a short-term basis in order to take advantage of the temporary opportunity to lower its cost of service for the benefit of its ratepayers. In order to enhance this benefit, NUI also seeks authority, pursuant to Section 366.04(1), Florida Statutes, to issue short-term indebtedness in excess of 5% of the par value of NUI's other outstanding securities. In such instances, NUI shall not issue short-term indebtedness in excess of 25% of the par value of its outstanding securities without obtaining further Commission approval.

The equity securities will be in the form of common stock and/or preferred stock. The long-term debt securities may take the form of medium-term notes, installment contracts, and/or other obligations or arrangements underlying industrial development revenue bonds issued by political subdivisions of the states in which NUI Corporation operates gas utilities. Industrial development revenue bonds may or may not bear interest exempt from federal tax.

The issuance and/or sale of equity securities and long-term debt securities may be through either negotiated underwritten public offering at competitive bidding, direct public or private

sale, sale through agents, or distributions to security holders of NUI Corporation or affiliated companies, including sales of equity securities through employee benefit plans, incentive compensation plans, and continuous investment programs offered to shareholders, employees, customers and residents of the states in which NUI Corporation does business.

The short-term indebtedness will consist of borrowings under NUI Corporation's outstanding lines of credit, or through other short-term facilities.

NUI estimates that the interest rates for the long-term debt securities will be between 3% and 8%, the interest rates on the short-term indebtedness will be between 5% and 6%, and the dividend payment rate on the preferred stock will be approximately 8%. The actual interest and dividend rates will, however, be determined by market conditions at the time the securities are issued or sold.

In its original application, City Gas requested authority to issue and sell securities, not to exceed \$80 million in the aggregate, during the twelve month period ending June 30, 1997. Its application was approved in Order No. PSC-96-9846-FOF-GU, issued July 2, 1996. Because of a scrivener's error, the Order was amended in Order No. PSC-96-0846A-FOF-GU, issued July 9, 1996. Further, its modified application, allowing NUI to apply a portion of the proceeds of the securities for the acquisition of a 49% interest in T.I.C. Enterprises, Inc. to be converted into a limited liability company (T.I.C., L.L.C.), was approved in Order No. PSC-97-0553-FOF-GU, issued May 15, 1997.

Typically, City Gas submits a comprehensive financing plan applicable for the 12 month period beginning July 1 and ending on the following June 30 in support of an application for authority to issue securities during that period. However, at this time, City Gas has not completed its analysis of its needs for the coming 12 months, and the authority granted by the Commission in the above orders expires on June 30, 1997. The Company expects to complete the transactions on which the request in their modified application was premised on or before September 30, 1997. Specifically, the Company intends to refinance \$54.6 million of tax-exempt debt that was issued in 1991 during July 1997, and plans to issue equity (a portion of the proceeds of which will take the place of the short-term debt used to obtain an interest in T.I.C., L.L.C.) in September 1997.

City Gas requests authority for NUI to issue and sell long-term debt and equity securities in amounts not to exceed \$80 million in the aggregate, during the period of July 1, 1997 through September 30, 1997, and also to issue short-term debt not to exceed 25% of the par value of other outstanding NUI securities during the same period. Prior to the expiration of that period, the Company will complete its analysis of additional needs and will file a separate application for authority applicable to the following time period.

Commission approval of the proposed issuance of securities by City Gas does not indicate specific approval of any rates, terms, or conditions associated with the issuance. Such matters are properly reserved for review by the Commission within the context of a rate proceeding. The subject financing is approved subject to the Commission's retention of the right to disallow any of the costs incurred for rate making purposes.

Having reviewed the application, it is the finding of this Commission that the issuance and sale of the above discussed securities, within the limits described, will not impair the ability of NUI, or its subsidiary operating in Florida, City Gas Company of Florida, to perform the services of a public utility. In addition, these transactions are for lawful purposes within NUI Corporation's corporate powers and, as such, the application is granted subject to the conditions stated herein.

For these reasons, we find that City Gas's application for authority to issue and sell securities during the three months ending September 30, 1997 should be granted.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that City Gas Company of Florida's Motion for Clarification of Orders Nos. PSC-96-0846-FOF-GU, PSC-96-0846A-FOF-GU, and PSC-97-0553-FOF-GU is granted. It is further

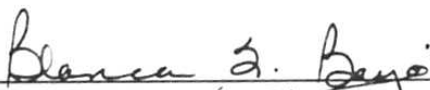
ORDERED that the application of NUI Corporation, doing business as City Gas Company of Florida, for approval to issue and sell equity securities and long-term debt obligations, not to exceed \$80 million in the aggregate during the three months ending September 30, 1997, is approved. It is further

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ORDERED that NUI Corporation, doing business as City Gas Company of Florida, is, hereby, authorized to issue short-term indebtedness up to but not exceeding 25 percent of the par value of the other outstanding securities of NUI Corporation, doing business as City Gas Company of Florida. It is further

ORDERED that NUI Corporation, doing business as City Gas Company of Florida, file a consummation report in compliance with Rule 25-8.009, Florida Administrative Code, within 90 days after the end of any fiscal year in which it issues securities.

By ORDER of the Florida Public Service Commission, this 8th day of July, 1997.



BLANCA S. BAYÓ, Director
Division of Records and Reporting

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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 the Commission's final action in this matter may request: 1) reconsideration of the decision by filing a motion for reconsideration with the Director, Division of Records and Reporting, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, within fifteen (15) days of the issuance of this order in the form prescribed by Rule 25-22.060, Florida Administrative Code; or 2) 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 and/or wastewater utility by filing a notice of appeal with the Director, Division of Records and reporting and filing a copy of the notice of appeal and the filing fee with the appropriate court. This filing must be completed within thirty (30) days after the issuance of this order, pursuant to Rule 9.110, Florida Rules of Appellate Procedure. The notice of appeal must be in the form specified in Rule 9.900(a), Florida Rules of Appellate Procedure.