

BEFORE THE PUBLIC SERVICE COMMISSION

In re: Petition for approval of acquisition adjustment and recognition of regulatory asset to reflect purchase of Florida City Gas by AGL Resources, Inc.

DOCKET NO. 060657-GU
ORDER NO. PSC-07-0845-CFO-GU
ISSUED: October 18, 2007

ORDER GRANTING FLORIDA CITY GAS'
REQUEST FOR CONFIDENTIAL CLASSIFICATION
(DOCUMENT NO. 04406-07)

On May 30, 2007, pursuant to Section 366.093, Florida Statutes (F.S.), and Rule 25-22.006, Florida Administrative Code (F.A.C.), Florida City Gas (FCG) filed a request that the Commission enter an order protecting from public disclosure certain information. The subject information was provided in response to staff's informal requests in connection with this docket.

Specifically, FCG seeks to protect from public disclosure the following: (1) pages 20 through 22 of the Gas Supply Asset Assignment and Agency Agreement between NUI Utilities, Inc. and Cinergy Marketing & Trading, L.P., dated April 7, 2004 (NUI Contract); and (2) pages 11 and 12 of the current Asset Management Agreement between FCG and Sequent Energy Management, L.P., effective April 1, 2005 (Sequent Energy Contract). This information is identified as Document No. 04406-07, and is currently being treated as confidential pending a final determination on confidential classification.

FCG contends that the designated pages of this document contain proprietary confidential business information as defined in Section 366.093(3), F.S. In support of its request, FCG states that pages 20 through 22 contain the terms of the prepayment obligation of NUI when purchasing gas from Cinergy. FCG states that this contract was "signed by a prior owner of the utility and has been treated by FCG as private and has not been publicly disclosed and has been obtained only pursuant to a private agreement which provides that the information will not be released to the public." FCG also contends that pages 11 and 12 contain the terms of the current payment obligation of FCG when purchasing gas from Sequent. FCG states that these contract terms "have been treated by FCG as private and have not been publicly disclosed." Further, FCG alleges that "disclosure of these terms would impair the efforts of FCG to contract for goods or services on favorable terms."

Subsection 366.093(1), F.S., states: "Upon request of the public utility or any other person, any records received by the commission which are shown and found by the commission to be proprietary confidential business information shall be kept confidential and shall be exempt from s. 119.07(1)." Subsection 366.093(3), F.S., states in pertinent part:

(3) Proprietary confidential business information means information, regardless of form or characteristics, which is owned or controlled by the person or company, is

DOCUMENT NUMBER-DATE

09538 OCT 18 5

FPSC-COMMISSION CLERK

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:

...

(d) Information concerning bids or other contractual data, the disclosure of which would impair the efforts of the public utility or its affiliates to contract for goods or services on favorable terms.

(e) Information relating to competitive business interests, the disclosure of which would impair the competitive business of the provider of the information.

Upon consideration, it appears that all of the information contained in Document No. 04406-07 should be considered proprietary confidential business information for the reasons given by FCG. The information in both the NUI Contract and in the Sequent Energy Contract has been treated "as private in that the disclosure of the information would cause harm to the . . . company's business operations, and has not been disclosed" except pursuant to a private agreement. Therefore, the three pages of the NUI Contract and the two pages of the Sequent Energy Contract come under Section 366.093(3), F.S., generally. Moreover, the NUI Contract contains "[i]nformation relating to competitive interests, the disclosure of which would impair the competitive business of the provider of the information." See, Section 366.093(3)(e), F.S. Also, the Sequent Energy Contract contains ". . . contractual data, the disclosure of which would impair the efforts of the public utility or its affiliates to contract for goods or services on favorable terms." See, Section 366.093(3)(d), F.S. Therefore, pages 20 through 22 (NUI Contract) in Document No. 04406-07 appear to be covered by Section 366.093(3)(e), F.S., and pages 11 and 12 (Sequent Energy Contract) in Document No. 04406-07 appear to be covered by Section 366.093(3)(d), F.S. For the reasons stated herein, the above-noted pages of Document No. 04406-07 shall be accorded confidential classification as summarized in the following table.

Document No. 04406-07			
Description	Page(s)	18 Months Classification	Type of Information Classified Confidential
Gas Supply Asset Assignment and Agency Agreement Dated April 7, 2004 (NUI Contract)	20-22	Grant	Sensitive competitive business information, Section 366.093(3)(e), F.S.
Asset Management Agreement Between FCG and Sequent Energy Management, L.P., Effective April 5, 2005 (Sequent Energy Contract)	11-12	Grant	Sensitive information which would impair ability to contract for goods or services on favorable terms, Section 366.093(3)(d), F.S.

FCG also requested that the confidential information be protected from disclosure for a period of at least 18 months and that all information "be returned to FCG as soon as the information is no longer necessary for the Commission to conduct its business." According to the provisions of Subsection 366.093(4), F.S., absent good cause shown, confidential classification is limited to 18 months. Having not shown good cause for a longer period, the confidential classification period shall be set as 18 months from the date of this Order. If the records are held longer than 18 months from the date of this Order, they "shall no longer be exempt from s. 119.07(1)," unless the utility demonstrates, and the Commission finds, that the records continue to contain proprietary confidential business information. This Order shall be the only notification by the Commission to the parties of the date of declassification of the materials discussed herein. Also, as provided for in Subsection 366.093(4), F.S., "when such records are no longer necessary for the Commission to conduct its business," the Commission shall order the return of the confidential records.


Based on the foregoing, it is

ORDERED by Commissioner Katrina J. McMurrin, as Prehearing Officer, that Florida City Gas' Request for Confidential Classification of Document No. 04406-07 is granted. It is further

ORDERED that the information in Document No. 04406-07 for which confidential classification has been granted shall remain protected from disclosure for a period of 18 months from the date of issuance of this Order. It is further

ORDERED that this Order shall be the only notification by the Commission to the parties of the date of declassification of the materials discussed herein.

By ORDER of Commissioner Katrina J. McMurrin, as Prehearing Officer, this 18th day of October, 2007.


KATRINA J. McMURRIAN
Commissioner and Prehearing Officer

(S E A L)

RRJ

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.

Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

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; 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 or wastewater utility. A motion for reconsideration shall be filed with the Office of Commission Clerk, 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.