



# Public Service Commission

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RECORDS AND REPORTING

**DATE:** December 27, 2000  
**TO:** Division of Legal Services (Elias)  
**FROM:** Division of Regulatory Oversight (Freeman, Vandiver) *F O*  
**RE:** Docket 000768-GU, Recommendation concerning the City Gas Company of Florida, a division of NUI corporation (NUI City Gas), request for confidential classification for portions of the staff's working papers prepared during audit report numbered 00-264-4-1, City Gas Company Rate Case, Documents 14581-00, 14582-00, 15876-00 and 16028-00

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On November 21, 2000, when copies of certain portions of staff's working papers prepared regarding the NUI City Gas Rate Case audit were provided to NUI City Gas at the audit exit conference, the utility requested that these materials be temporary excepted from public access in accordance with the provisions of Rule 25-22.006(3)(a)(2), Florida Administrative Code (FAC). On November 13, 2000, staff filed documents 11211-00, 11212-00, and 11213-00, consisting of those specified portions of the working papers,

On December 12, 2000, the utility 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 working papers prepared by staff during the audit receive confidential classification. The utility request included redacted copies (Exhibit B, document 15875-00) and confidential copies (Document 15876-00).

On December 15, 2000, City Gas filed a revision to its request reporting that the utility had inadvertently failed to highlight sensitive materials found within document 15876-00 and filed a corrected copy of this material with the sensitive materials highlighted (Document 16028-00).

Legal staff has the responsibility of recommending whether this filing is timely. For our purposes, this filing has been timely in the correction of a technical error.

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)(d), F.S. provides the following exemption:

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00223 JAN-4-00

FPSC-RECORDS/REPORTING

“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 related 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 Gas filing reveals the sensitive materials consist of:

1. Information contained in the Director’s minutes which pertain to future business plans and strategies, which is competitive information, the release of which would cause harm; and
2. An individual customer’s bill, or bill related customer-specific information. The utility claims this information is “customer specific and is proprietary to the customer and to City Gas Company of Florida.”

Reading the sensitive materials, we find that portions report future business plans and strategies discussed in the Company’s Director’s minutes, and comprise competitive business information release of which would cause harm to the provider of the information. As to the customer specific bills and billing information, the Commission has followed a long standing policy that customer specific information is confidential proprietary business information the release of which would cause harm. We therefore recommend the utility’s request for confidential classification of this material be granted.

### **Duration of the Confidential Classification Period**

The utility requests that the material be granted confidential classification for at least 18 months. According to the provisions of Section 366.093(4), F.S., absent good cause shown for a longer period of protection, a confidential classification is limited to 18 months. We therefore recommend that the period of classification be set as 18 months.

**Confidential Classification is recommended for the following materials:**

Staff Work Paper Number	Page(s)	Line(s)	Columns	Type of Information Classified Confidential
14582-00 and 16028-00				
8	1	1-6	1-4	Competitive business information the release of which would cause harm
41-5/2-1	1-11	1-4		Specific customer billing information
41-5/2-1	12,13	1-8		Specific customer billing information
41-5/2-1	14	1		Specific customer billing information

We further recommend that document 15876-00 which was filed in error be returned to the utility.

A temporary copy of this recommendation will be held at I:16028-00.RAF for a short time.

CC: Division of Regulatory Oversight (Pritchett, Welch)  
Division of Records and Reporting (Flynn)