

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for review and determination on the project construction and gas transportation agreement between NUI Utilities, Inc. d/b/a City Gas Company of Florida and Florida Crystals Corporation, and approval of an interim service arrangement.

DOCKET NO. 20160175-GU
ORDER NO. PSC-2017-0275-CFO-GU
ISSUED: July 13, 2017

ORDER GRANTING FLORIDA CITY GAS'S REQUEST FOR CONFIDENTIAL CLASSIFICATION (DOCUMENT NO. 08582-16)

On November 1, 2016, 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 for Confidential Classification (Request) of certain information provided in response to the Florida Public Service Commission (Commission) Staff's First Set of Data Requests; specifically: Confidential Exhibit No. 2A, Confidential Exhibit No. 3A (2016) to 3A (2031), Attachment DR6, data request responses 1, 3, 5, 8, 11, and 12, and a CD-ROM containing unlocked Excel spreadsheets for the aforementioned exhibits and attachment (Document No. 08582-16). This request was filed in Docket No. 160175-GU.

Request for Confidential Classification

FCG contends that the information contained in Confidential Exhibit No. 2A, Confidential Exhibit No. 3A (2016) to 3A (2031), Attachment DR6, data request responses 1, 3, 5, 8, 11, and 12, and the CD-ROM containing unlocked Excel spreadsheets for the aforementioned exhibits and attachment, submitted in Docket No. 160175-GU and more specifically identified by page, line, and statutory justification in Attachment 1 to its Request, constitutes proprietary confidential business information entitled to protection under Section 366.093, F.S., and Rule 25-22.006, F.A.C. FCG affirms that the information has not been disclosed to the public.

FCG asserts that the information at issue relates to 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. FCG further asserts that the information at issue relates to trade secrets and contains contractual data which, if disclosed, would impair the efforts of FCG to negotiate with other large volume customers. FCG maintains that 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 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. Therefore, FCG argues that such information is entitled to confidential classification pursuant to Sections 366.093(3)(a), (d), and (e), F.S.

Ruling

Section 366.093(1), F.S., provides that records the Commission has found to contain proprietary business information shall be kept confidential and shall be exempt from Chapter 119, F.S. Section 366.093(3), F.S., defines proprietary confidential business information as information that is intended to be and is treated by the company as private, in that disclosure of the information would cause harm to the company's ratepayers or business operations, and has not been voluntarily disclosed to the public. Section 366.093(3), F.S., provides that proprietary confidential business information includes, but is not limited to:

- (a) Trade secrets.
- (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 interests, the disclosure of which would impair the competitive business of the provider of the information.

Upon review, it appears the above-referenced information satisfies the criteria set forth in Section 366.093(3), F.S., for classification as proprietary confidential business information. The information described above appears to be "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" and "information relating to competitive interests, the disclosure of which would impair the competitive business of the provider of the information." Thus, the information identified in Document No. 08582-16 shall be granted confidential classification. Although FCG also asserted that this information is protected under Section 366.093(3)(a), F.S., an evaluation of that statutory provision is unnecessary as the information meets the requirements set forth in Sections 366.093(3)(d) and (e), F.S.

Pursuant to Section 366.093(4), F.S., the information for which confidential classification is granted herein shall remain protected from disclosure for a period of up to 18 months from the date of issuance of this Order. At the conclusion of the 18-month period, the confidential information will no longer be exempt from Section 119.07(1), F.S., unless FCG or another affected person shows, and the Commission finds, that the records continue to contain proprietary confidential business information.

Based on the foregoing, it is hereby

ORDERED by Chairman Julie I. Brown, as Prehearing Officer, that Florida City Gas's Request for Confidential Classification of Document No. 08582-16 is granted. It is further

ORDERED that the information in Document No. 08582-16, for which confidential classification has been granted, shall remain protected from disclosure for a period of up to 18 months from the date of issuance of this Order. It is further

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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 Chairman Julie I. Brown, as Prehearing Officer, this 13th day of July, 2017.



JULIE I. BROWN
Chairman and Prehearing Officer
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Copies furnished: A copy of this document is provided to the parties of record at the time of issuance and, if applicable, interested persons.

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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.

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 25-22.0376, 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.