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CABLE GRANDLAW

PLEASE REPLY TO
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TALLAHASSEE OFFICE
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TALLAHASSEE, FLORIDA 32301

TELEPHONE (904) 222-2525

FAX (904) 222-5606

April 19, 1996

HAND-DELIVERED

Blanca S. Bayo, Director
Division of Records and Reporting
Gunter Building
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0870

Re: Petition of City Gas Company of Florida and South Florida Natural Gas
Company to Approve Territorial Agreement - Docket No. 960510-GU

Dear Ms. Bayo:

Enclosed for filing and distribution are the original and sixteen copies of Joint
Petition to Approve Territorial Agreement in the above docket.

Please acknowledge receipt of the above on the extra copy enclosed herein and
return it to me. Thank you for your assistance.

Yours truly,


Joseph A. McGlothlin

JAM/jei

cc: Norman H. Horton, Jr.



DOCUMENT NUMBER-DATE
04563 APR 19 96
FPSC-RECORDS/REPORTING

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition of City Gas)
Company of Florida and South)
Florida Natural Gas Company to)
Approve Territorial Agreement)

Docket No. 960510-60

Filed: April 19, 1996

JOINT PETITION TO APPROVE TERRITORIAL AGREEMENT

Pursuant to section 366.04, Florida Statutes, and rule 25-7.0471, Florida Administrative Code, City Gas Company of Florida (City Gas) and South Florida Natural Gas Company (South Florida), through their undersigned counsel, hereby petition the Florida Public Service Commission (Commission), to approve the Territorial Agreement (Agreement) between City Gas and South Florida, attached hereto as Exhibit A. As grounds therefor, City Gas and South Florida state:

1. The names and addresses of Petitioners are:

City Gas Company of Florida
955 E. 25 Street
Hialeah, Florida 33013

South Florida Natural Gas Company
P. O. Box 69-J
Miami, Florida 33169

2. Notices and communications with respect to this petition should be sent to:

For City Gas:

Michael A. Palecki
Vice President, Regulatory Affairs
City Gas Company of Florida
955 E. 25 Street
Hialeah, Florida 33013

Joseph A. McGlothlin
Vicki Gordon Kaufman
McWhirter, Reeves, McGlothlin, Davidson,
Rief & Bakas, P.A.
117 South Gadsden Street
Tallahassee, Florida 32301

DOCUMENT NUMBER-DATE

04563 APR 19 96

FPSC-RECORDS/REPORTING

For South Florida:

Norman H. Horton, Jr.
Messer, Caparello, Madsen, Goldman & Metz
215 South Monroe Street, Suite 701
Tallahassee, Florida 32302

Introduction

3. City Gas and South Florida provide natural gas distribution services to retail customers within the State of Florida. They are both natural gas utilities as defined in section 366.04(c), Florida Statutes.

4. The Commission has jurisdiction pursuant to section 366.04(3), Florida Statutes, to approve territorial agreements between natural gas utilities.

5. City Gas serves approximately 100,000 customers in portions of Dade, Broward, Brevard, and St. Lucie counties. South Florida serves approximately 3,900 customers in Volusia County. City Gas' and South Florida's service territories pursuant to the proposed Agreement are depicted on the map included as Attachment A to the Agreement.

Basis for Approval of Agreement

6. Both Petitioners applied for and received franchises to distribute natural gas to retail customers within the City of Vero Beach. A dispute arose between Petitioners regarding which utility should provide retail service to retail natural gas customers within the City of Vero Beach and Indian River County.

7. In order to settle the dispute, avoid the unnecessary expenditure of resources, prevent the uneconomic duplication of facilities and enable as many persons and businesses as possible within Indian River County to receive economical and reliable

natural gas service, the Petitioners have entered into the attached Agreement. This Agreement represents an effort by Petitioners to minimize costs by avoiding unnecessary duplication of facilities.

8. The pertinent terms and conditions of the Agreement between City Gas and South Florida are as follows:

a. City Gas will have the exclusive authority to distribute natural gas to all existing and new customers within Indian River County, including the City of Vero Beach.

b. Through either assignment or resale, South Florida will convey its right to acquire Florida Gas Transmission's (FGT) natural gas pipeline lateral between FGT's main transmission trunk on I-95 and the City of Vero Beach to City Gas.

c. South Florida will provide City Gas with copies of all market research it has conducted regarding the potential for natural gas usage in Indian River County and any customer contact information.

d. City Gas will pay to South Florida \$180,000, as reimbursement for South Florida's development costs and as compensation for market research and other pertinent data delivered to City Gas pursuant to the proposed Agreement.

9. In addition to resolving the dispute regarding new service to Indian River County, the parties also have agreed to recognize and observe their respective existing service areas, as depicted on the map included at Attachment A to the Agreement.

10. No customers will be transferred as a result of this agreement; therefore, no current customers' rates will be affected.


11. By eliminating potential non-economic duplication of

facilities within the area covered by the Agreement, the Agreement will lower the cost of providing natural gas service to the area, and will enhance the reliability of natural gas service to existing and future ratepayers of the Petitioners.


12. By this Joint Petition, Petitioners do not seek approval at this time of the prudence or reasonableness of the terms for compensation to which the parties have agreed. The parties acknowledge the jurisdiction of the Commission to consider such matters in appropriate future ratemaking proceedings.

WHEREFORE, Petitioners respectfully request that the Commission:

1. Approve the Territorial Agreement attached hereto as Exhibit A; and
2. Expedite its consideration and disposition of this Petition by use of the proposed agency action procedure.


Joseph A. McGlothlin
Vicki Gordon Kaufman
McWhirter, Reeves, McGlothlin,
Davidson, Rief & Bakas, P.A.
117 South Gadsden Street
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(904) 222-2525

Attorneys for City Gas Company of
Florida

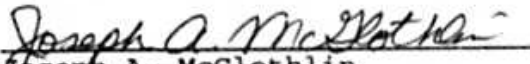

Norman H. Horton, Jr.
Messer, Caparello, Madsen,
Goldman & Metz
215 South Monroe Street, Suite 701
Tallahassee, Florida 32302
(904) 877-0099

Attorneys for South Florida Natural
Gas Company

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the Joint Petition to Approve Territorial Agreement has been furnished by hand delivery* or by U.S. Mail to the following parties of record, this 19th day of April, 1996:

*Martha Carter Brown
Division of Legal Services
Public Service Commission
2540 Shumard Oak Boulevard
Gerald L. Gunter Building
Tallahassee, FL 32399-0850


Joseph A. McGlothlin
Joseph A. McGlothlin
Vicki Gordon Kaufman
McWhirter, Reeves, McGlothlin,
Davidson, Rief & Bakas, P.A.
117 South Gadsden Street
Tallahassee, Florida 32301
(904) 222-2525

Attorneys for City Gas Company
of Florida

AGREEMENT

THIS AGREEMENT is made and entered into this 4th day of April, 1996, by and between **SOUTH FLORIDA NATURAL GAS COMPANY**, a private corporation organized and existing under the laws of the State of Florida ("South Florida"), and **CITY GAS COMPANY OF FLORIDA**, a division of NUI Corporation, a private corporation organized and existing under the laws of the State of New Jersey ("City Gas"). South Florida and City Gas are hereinafter sometimes referred to singularly as "Party" and are collectively referred to as "Parties."

WITNESSETH:

WHEREAS, City Gas and South Florida, by virtue of their respective Charters, are authorized and empowered to distribute natural gas at retail to persons, firms, corporations and governmental entities throughout the State of Florida; and

WHEREAS, City Gas and South Florida each applied for and received a franchise from the City of Vero Beach authorizing each Company to distribute natural gas to retail customers within the City; and

WHEREAS, City Gas and South Florida have both pursued plans to develop natural gas distribution service in the City of Vero Beach and in portions of Indian River County lying outside the municipal boundaries of the City of Vero Beach; and

WHEREAS, a dispute arose between City Gas and South Florida concerning which utility should provide service to retail natural gas customers located in the City of Vero Beach and Indian River County; and

WHEREAS, City Gas and South Florida desire to settle the dispute between them in order that present and future applicants for natural gas service may expeditiously obtain such service; and

WHEREAS, the Parties hereto recognize that any duplication of service facilities may result in needless and wasteful expenditures that are detrimental to the public interest; and

WHEREAS, in order to enable as many persons and businesses within Indian River County as possible to receive economical and reliable natural gas service, the parties wish to avoid the undesirable uneconomic duplication of facilities that would be associated with efforts to develop multiple, duplicative distribution systems in the City of Vero Beach and in outlying areas of Indian River County; and

WHEREAS, City Gas and South Florida provide natural gas distribution service at retail in certain other areas of the State and wish to avoid potential confrontation and detrimental duplication of facilities in those areas; and

WHEREAS, South Florida has incurred certain costs and expenses in its efforts to obtain its Vero Beach franchise, acquire rights to purchase certain existing facilities, conduct market research, and otherwise pursue its plan to develop a natural gas distribution system in the area; and

WHEREAS, City Gas is willing to reimburse South Florida for such costs of development, and value of research, upon certain conditions being satisfied; and

WHEREAS, the Florida Public Service Commission ("PSC") is empowered by the legislature of the State of Florida, pursuant to section 366.04(3)(a), Florida Statutes, to approve territorial agreements between natural gas utilities;

NOW, THEREFORE, in fulfillment of the purposes and desires aforesaid, and in consideration of the mutual covenants and agreements herein contained, which shall be construed as being interdependent, the Parties hereto, subject to and upon the terms and conditions herein set forth, do hereby agree as follows:

I. Definitions

Section 1.1 Natural Gas As used herein, the term "Natural Gas" shall mean: natural gas, manufactured gas, liquefied gas with air admixture, or a similar gaseous substance furnished to the public by buried pipe.

Section 1.2 Disputed Area As used herein, "Disputed Area" shall mean Indian River County, including the City of Vero Beach. The "Disputed Area" is identified on Attachment A.

Section 1.3 City Gas Existing Territorial Area As used herein, the term "City Gas Existing Territorial Area" shall mean the portions of Dade, Broward, Brevard, and St. Lucie Counties shown on Attachment A.

Section 1.4 South Florida Existing Territorial Area As used herein, the term "South Florida Existing Territorial Area" shall mean Volusia County as shown on Attachment A.

Section 1.5 Point of Use As used herein, the term "Point of Use" shall mean the end-use Natural Gas facilities of a customer, as distinct from the point of connection or point of metering.

Section 1.6 New Customers As used herein, the term "New Customers" shall mean those consumers applying for Natural Gas service for a Point of Use in the Disputed Area or in the Existing Territorial Area of either Party during the term of this Agreement.

Section 1.7 Existing Customers As used herein, the term "Existing Customers" shall mean those consumers presently receiving Natural Gas service at a Point of Use through the distribution facilities of a Party.

II. Service Areas

Section 2.1 Disputed Area The parties agree that City Gas shall have the exclusive authority to distribute Natural Gas at retail to all Existing Customers and all New Customers within the Disputed Area.

Section 2.2 Existing Territorial Areas The parties agree that City Gas will not provide or attempt to provide Natural Gas distribution service to any Existing Customers or New Customers having Points of Use located in South Florida's Existing Territorial Area, and South Florida will not provide or attempt to provide Natural Gas distribution service to any Existing Customers or New Customers having Points of Use located in City Gas' Existing Territorial Area.

III. Assignment of Contract Rights/Alternative

Purchase/Sale of Lateral

Section 3.1 Assignment of Contract or Purchase of Lateral Upon execution of this Agreement, South Florida shall, based upon the option selected by City Gas, either (a) assign its contractual rights pursuant to the contract between South Florida and FGT dated August 15, 1995, to purchase that certain Natural Gas pipeline lateral owned by Florida Gas Transmission lying between FGT's main transmission trunk on I-95 and the City of Vero Beach and located along Highway 60 and associated assets, to City Gas, said contract to be fully in force and unmodified and said assignment to be in a form acceptable to City Gas; or, (b) consummate said contract with FGT and immediately convey the pipeline and all other assets that are the subject of the August 15, 1995 agreement between FGT and South Florida, in the same condition received from FGT, and unchanged and unencumbered in any way, to City Gas for the same purchase price identified in the August 15, 1995 contract, adjusted only to reflect taxes and expenses of the transaction between FGT and South Florida incurred by South Florida so as to keep South Florida whole. All taxes and expenses associated with the sale of the lateral and other assets from South Florida to City Gas will be prorated or allocated so as to ensure that South Florida incurs neither a profit nor a loss and City Gas receives the lateral for the purchase price paid by South Florida to FGT, adjusted only to reflect taxes and

expenses incurred or to be collected by South Florida. South Florida shall provide a good faith estimate of all such taxes and expenses to City Gas as soon as practicable.

City Gas shall give notice of the option it has selected in writing to South Florida within 3 days of the execution of this agreement. If applicable, the execution of the assignment of the contract between FGT and South Florida will take place within 30 days of the date of said notice. If City Gas elects to purchase the 4" lateral from South Florida after South Florida buys it from FGT, the parties shall schedule the closing on the transactions to occur no sooner than 10 days and no later than 60 days following the expiration of any appeal period associated with the final order of the Florida Public Service Commission approving this Agreement. If City Gas elects to purchase the 4" lateral, it is understood that such purchase will occur coincident with the purchase of the lateral from FGT by South Florida.

IV. Market Research

Section 4.1 Market Studies South Florida agrees to provide City Gas with copies of all market research and all analyses conducted by or for South Florida regarding the potential for Natural Gas usage in Indian River County and any customer contact information which South Florida may have.

V. Condition Precedent

Section 5.1 PSC Approval This Agreement as to the territory served by the parties is subject to the regulatory authority of the PSC, and except with respect to the initial payment described herein, appropriate final approval by that body of the provisions of this Agreement, shall be a condition to the validity, enforceability and applicability hereof. Upon the execution of this agreement, the Parties shall promptly submit it to the PSC for its approval. Any proposed modification to this Agreement shall be submitted to the PSC for approval upon execution by the Parties. In addition, the Parties agree to jointly petition the PSC to resolve any dispute concerning the provisions of this Agreement or the Parties' performance of this Agreement in the event the parties are not able to reach a resolution.

VI. Compensation

Section 6.1 Compensation On the terms and conditions stated below, City Gas will pay to South Florida the sum of \$180,000, as reimbursement of South Florida's development costs and as compensation for market research and other pertinent data developed by South Florida and delivered to City Gas pursuant to this agreement. South Florida shall provide City Gas a schedule allocating the estimated costs among the various categories of development activities and related items. The \$180,000 shall be payable as follows:

(a) City Gas will pay South Florida \$100,000 upon execution of this agreement, receipt of the above schedule, withdrawal by South Florida of its intervention and protest

in Federal Energy Regulatory Commission Docket No. CP96-165-00(!) (Application of Florida Gas Transmission Company for authorization to construct and operation a delivery point in Indian River County to serve City Gas), and, if applicable, the assignment of the FGT contract.

(b) Upon execution of this Agreement, receipt of the above schedule, withdrawal by South Florida of its intervention and protest in Federal Energy Regulatory Commission Docket No. CP96-165-000 (Application of Florida Gas Transmission Company for authorization to construct and operation a delivery point in Indian River County to serve City Gas), and, if applicable, the assignment of the FGT contract, City Gas will pay the balance of \$80,000 into an escrow or trust account to be held by Messer, Caparello, Madsen, Goldman & Metz P.A., such funds to be released to South Florida upon final approval by the Florida Public Service Commission, including the expiration of any associated appeal period, of the agreement regarding service areas contained herein. In the event the Florida Public Service Commission does not approve the Agreement regarding territorial service areas contained herein, the balance of \$80,000 shall be returned to City Gas and City Gas shall have no obligation to close on the purchase of the 4" lateral from South Florida; however, South Florida shall retain the first payment of \$100,000.

VII. Term of Agreement

Section 8.1 Term This Agreement as to service areas shall continue and remain in effect for a period of fifteen (15) years from the date of expiration of the appeal period following issuance of the Order approving this Agreement. This Agreement shall automatically be extended for a period of fifteen (15) years unless either Party gives written notice of intent to terminate at least one (1) year prior to the date of termination herein.

VIII. Miscellaneous

Section 9.1 Other Natural Gas Utilities Nothing in this Agreement is intended to define, establish or affect in any manner the rights of either Party hereto relative to any other Natural Gas utility not a party to this Agreement with respect to the distribution of Natural Gas at retail.

Section 9.2 Other Service Areas Unaffected Nothing herein is intended to restrict either party from providing service elsewhere in the State, except as specifically provided herein.

Section 9.3 Negotiations Whatever terms or conditions may have been discussed during the negotiations leading up to the execution of this Agreement, the only ones agreed upon are those set forth herein, and no alteration, modification, enlargement or supplement to this Agreement shall be binding upon either of the Parties hereto unless the same shall be in writing, attached hereto, signed by both Parties, and approved by the PSC.

Section 9.4 Parties Affected It is agreed and understood that this Agreement is between only South Florida and City Gas and involves only the retail distribution of Natural Gas. It does not affect other affiliates or subsidiaries of either South Florida or of City Gas.

Section 9.5 Successors and Assigns Nothing in this Agreement, expressed or implied, is intended nor shall be construed to confer upon or give to any person or corporation, other than the Parties hereto, any right, remedy or claim under or by reason of this Agreement or any provision or conditions hereof; and all of the provisions, representations, covenants and conditions herein contained shall inure to the sole benefit of, and shall be binding only upon, the Parties hereto and their respective representatives, successors and assigns.

Section 9.6 Notices given hereunder shall be deemed to have been given to City Gas if mailed by certified mail, postage prepaid, to: Lyle C. Motley, Jr., President, 955 E. 25th Street, Hialeah, Florida 33013 and to South Florida if mailed by certified mail, postage prepaid, to: J. Peter Martin, President, Post Office Box 69-J, Miami, Florida 33169. Such address to which such notice shall be mailed may be, at any time, changed by designating such new address and giving notice thereof in writing in the manner as herein provided.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed in duplicate in their respective corporate names and their corporate seals affixed by their duly authorized officers on the day and year first written above.

ATTEST:

Gertrude Comwell
(SEAL)

CITY GAS COMPANY OF FLORIDA

By: *[Signature]*

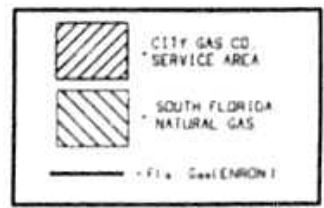
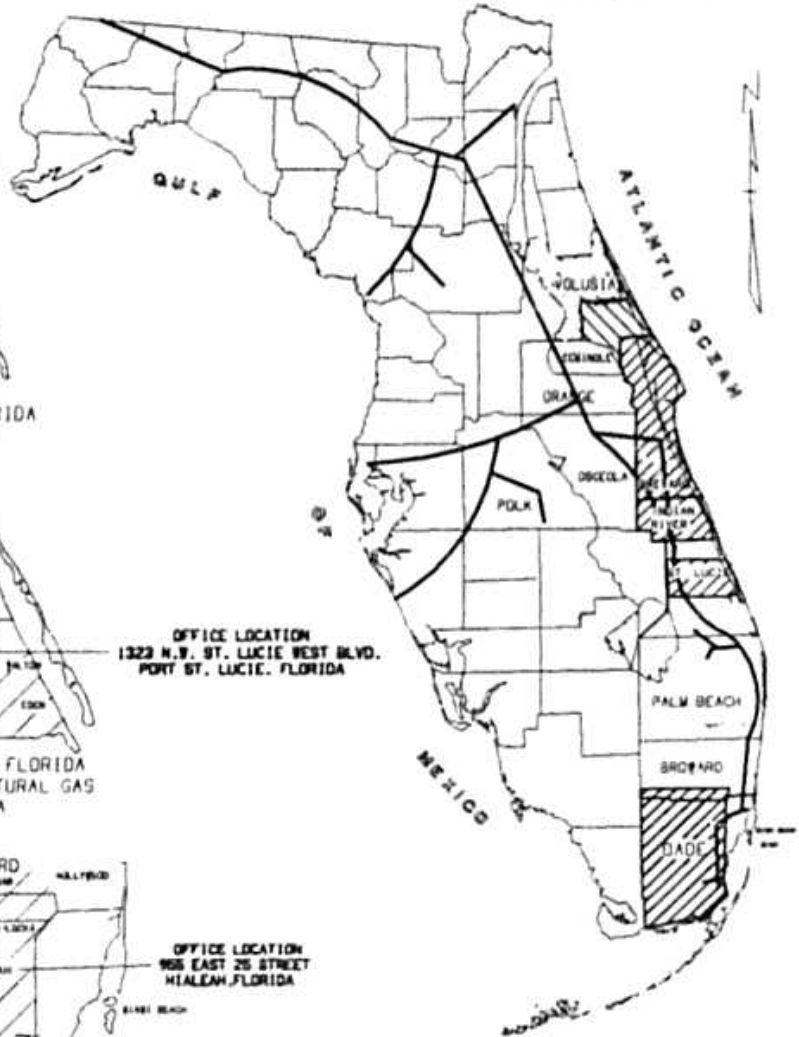
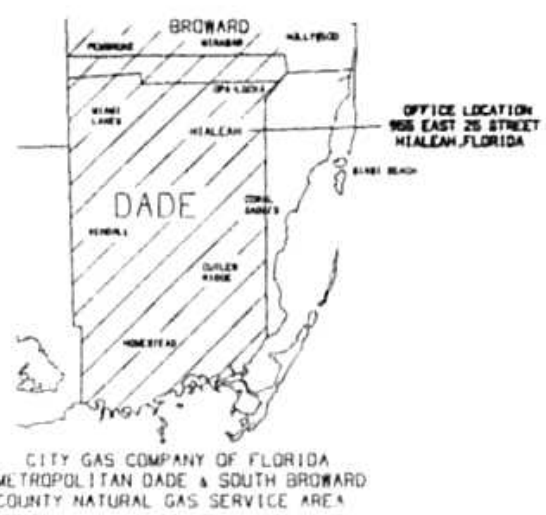
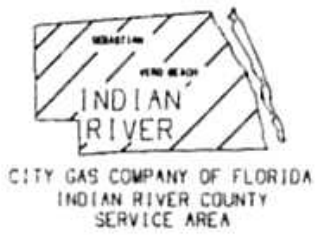
ATTEST:

Stelma J. Domians
(SEAL)

SOUTH FLORIDA NATURAL
GAS COMPANY

By: *[Signature]*

**MAPS OF TERRITORY SERVED
CITY GAS COMPANY OF FLORIDA
and SOUTH FLORIDA NATURAL GAS**



BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition of City Gas)
Company of Florida and South)
Florida Natural Gas Company to)
Approve Territorial Agreement)

Docket No. 960510-GU
Filed: April 19, 1996

APR 22 1996
F. T. RICE

JOINT PETITION TO APPROVE TERRITORIAL AGREEMENT

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04563 APR 19 96
FPSC-REGULATORY REPORTING

For South Florida

Norman H. Horton, Jr.
Messer, Caparello, Madsen, Goldman & Metz
215 South Monroe Street, Suite 701
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Introduction

3. City Gas and South Florida provide natural gas distribution services to retail customers within the State of Florida. They are both natural gas utilities as defined in section 366.04(c), Florida Statutes.

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Basis for Approval of Agreement

6. Both Petitioners applied for and received franchises to distribute natural gas to retail customers within the City of Vero Beach. A dispute arose between Petitioners regarding which utility should provide retail service to retail natural gas customers within the City of Vero Beach and Indian River County.

7. In order to settle the dispute, avoid the unnecessary expenditure of resources, prevent the uneconomic duplication of facilities and enable as many persons and businesses as possible within Indian River County to receive economical and reliable

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10. No customers will be transferred as a result of this agreement; therefore, no current customers' rates will be affected.

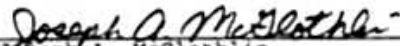
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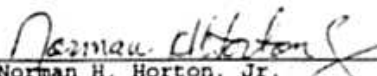
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Gas Company

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Attorneys for City Gas Company
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Section 1.3 City Gas Existing Territorial Area As used herein, the term "City Gas Existing Territorial Area" shall mean the portions of Dade, Broward, Brevard, and St. Lucie Counties shown on Attachment A.

Section 1.4 South Florida Existing Territorial Area As used herein, the term "South Florida Existing Territorial Area" shall mean Volusia County as shown on Attachment A.

Section 1.5 Point of Use As used herein, the term "Point of Use" shall mean the end-use Natural Gas facilities of a customer, as distinct from the point of connection or point of metering.

Section 1.6 New Customers As used herein, the term "New Customers" shall mean those consumers applying for Natural Gas service for a Point of Use in the Disputed Area or in the Existing Territorial Area of either Party during the term of this Agreement.

Section 1.7 Existing Customers As used herein, the term "Existing Customers" shall mean those consumers presently receiving Natural Gas service at a Point of Use through the distribution facilities of a Party.

II. Service Areas

Section 2.1 Disputed Area The parties agree that City Gas shall have the exclusive authority to distribute Natural Gas at retail to all Existing Customers and all New Customers within the Disputed Area.

Section 2.2 Existing Territorial Areas The parties agree that City Gas will not provide or attempt to provide Natural Gas distribution service to any Existing Customers or New Customers having Points of Use located in South Florida's Existing Territorial Area, and South Florida will not provide or attempt to provide Natural Gas distribution service to any Existing Customers or New Customers having Points of Use located in City Gas' Existing Territorial Area.

III. Assignment of Contract Rights/Alternative

Purchase/Sale of Lateral

Section 3.1 Assignment of Contract or Purchase of Lateral Upon execution of this Agreement, South Florida shall, based upon the option selected by City Gas, either (a) assign its contractual rights pursuant to the contract between South Florida and FGT dated August 15, 1995, to purchase that certain Natural Gas pipeline lateral owned by Florida Gas Transmission lying between FGT's main transmission trunk on I-95 and the City of Vero Beach and located along Highway 60 and associated assets, to City Gas, said contract to be fully in force and unmodified and said assignment to be in a form acceptable to City Gas; or, (b) consummate said contract with FGT and immediately convey the pipeline and all other assets that are the subject of the August 15, 1995 agreement between FGT and South Florida, in the same condition received from FGT, and unchanged and unencumbered in any way, to City Gas for the same purchase price identified in the August 15, 1995 contract, adjusted only to reflect taxes and expenses of the transaction between FGT and South Florida incurred by South Florida so as to keep South Florida whole. All taxes and expenses associated with the sale of the lateral and other assets from South Florida to City Gas will be prorated or allocated so as to ensure that South Florida incurs neither a profit nor a loss and City Gas receives the lateral for the purchase price paid by South Florida to FGT, adjusted only to reflect taxes and

expenses incurred or to be collected by South Florida. South Florida shall provide a good faith estimate of all such taxes and expenses to City Gas as soon as practicable.

City Gas shall give notice of the option it has selected in writing to South Florida within 3 days of the execution of this agreement. If applicable, the execution of the assignment of the contract between FGT and South Florida will take place within 30 days of the date of said notice. If City Gas elects to purchase the 4" lateral from South Florida after South Florida buys it from FGT, the parties shall schedule the closing on the transactions to occur no sooner than 10 days and no later than 60 days following the expiration of any appeal period associated with the final order of the Florida Public Service Commission approving this Agreement. If City Gas elects to purchase the 4" lateral, it is understood that such purchase will occur coincident with the purchase of the lateral from FGT by South Florida.

IV. Market Research

Section 4.1 Market Studies South Florida agrees to provide City Gas with copies of all market research and all analyses conducted by or for South Florida regarding the potential for Natural Gas usage in Indian River County and any customer contact information which South Florida may have.

V. Condition Precedent

Section 5.1 PSC Approval This Agreement as to the territory served by the parties is subject to the regulatory authority of the PSC, and except with respect to the initial payment described herein, appropriate final approval by that body of the provisions of this Agreement, shall be a condition to the validity, enforceability and applicability hereof. Upon the execution of this agreement, the Parties shall promptly submit it to the PSC for its approval. Any proposed modification to this Agreement shall be submitted to the PSC for approval upon execution by the Parties. In addition, the Parties agree to jointly petition the PSC to resolve any dispute concerning the provisions of this Agreement or the Parties' performance of this Agreement in the event the parties are not able to reach a resolution.

VI. Compensation

Section 6.1 Compensation On the terms and conditions stated below, City Gas will pay to South Florida the sum of \$180,000, as reimbursement of South Florida's development costs and as compensation for market research and other pertinent data developed by South Florida and delivered to City Gas pursuant to this agreement. South Florida shall provide City Gas a schedule allocating the estimated costs among the various categories of development activities and related items. The \$180,000 shall be payable as follows:

(a) City Gas will pay South Florida \$100,000 upon execution of this agreement, receipt of the above schedule, withdrawal by South Florida of its intervention and protest

in Federal Energy Regulatory Commission Docket No. CP96-165-000 (Application of Florida Gas Transmission Company for authorization to construct and operation a delivery point in Indian River County to serve City Gas), and, if applicable, the assignment of the FGT contract.

(b) Upon execution of this Agreement, receipt of the above schedule, withdrawal by South Florida of its intervention and protest in Federal Energy Regulatory Commission Docket No. CP96-165-000 (Application of Florida Gas Transmission Company for authorization to construct and operation a delivery point in Indian River County to serve City Gas), and, if applicable, the assignment of the FGT contract, City Gas will pay the balance of \$80,000 into an escrow or trust account to be held by Messer, Caparello, Madsen, Goldman & Metz P.A., such funds to be released to South Florida upon final approval by the Florida Public Service Commission, including the expiration of any associated appeal period, of the agreement regarding service areas contained herein. In the event the Florida Public Service Commission does not approve the Agreement regarding territorial service areas contained herein, the balance of \$80,000 shall be returned to City Gas and City Gas shall have no obligation to close on the purchase of the 4" lateral from South Florida, however, South Florida shall retain the first payment of \$100,000.

VII. Term of Agreement

Section 8.1 Term This Agreement as to service areas shall continue and remain in effect for a period of fifteen (15) years from the date of expiration of the appeal period following issuance of the Order approving this Agreement. This Agreement shall automatically be extended for a period of fifteen (15) years unless either Party gives written notice of intent to terminate at least one (1) year prior to the date of termination herein.

VIII. Miscellaneous

Section 9.1 Other Natural Gas Utilities Nothing in this Agreement is intended to define, establish or affect in any manner the rights of either Party hereto relative to any other Natural Gas utility not a party to this Agreement with respect to the distribution of Natural Gas at retail.

Section 9.2 Other Service Areas Unaffected Nothing herein is intended to restrict either party from providing service elsewhere in the State, except as specifically provided herein.

Section 9.3 Negotiations Whatever terms or conditions may have been discussed during the negotiations leading up to the execution of this Agreement, the only ones agreed upon are those set forth herein, and no alteration, modification, enlargement or supplement to this Agreement shall be binding upon either of the Parties hereto unless the same shall be in writing, attached hereto, signed by both Parties, and approved by the PSC.

Section 9.4 Parties Affected It is agreed and understood that this Agreement is between only South Florida and City Gas and involves only the retail distribution of Natural Gas. It does not affect other affiliates or subsidiaries of either South Florida or of City Gas.

Section 9.5 Successors and Assigns Nothing in this Agreement, expressed or implied, is intended nor shall be construed to confer upon or give to any person or corporation, other than the Parties hereto, any right, remedy or claim under or by reason of this Agreement or any provision or conditions hereof; and all of the provisions, representations, covenants and conditions herein contained shall inure to the sole benefit of, and shall be binding only upon, the Parties hereto and their respective representatives, successors and assigns.

Section 9.6 Notices given hereunder shall be deemed to have been given to City Gas if mailed by certified mail, postage prepaid, to: Lyle C. Motley, Jr., President, 955 E. 25th Street, Hialeah, Florida 33013 and to South Florida if mailed by certified mail, postage prepaid, to: J. Peter Martin, President, Post Office Box 69-J, Miami, Florida 33169. Such address to which such notice shall be mailed may be, at any time, changed by designating such new address and giving notice thereof in writing in the manner as herein provided.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed in duplicate in their respective corporate names and their corporate seals affixed by their duly authorized officers on the day and year first written above.

ATTEST:

Jimmy Cornell
(SEAL)

CITY GAS COMPANY OF FLORIDA

By: *[Signature]*

ATTEST:

Thelma G. Scoville
(SEAL)

SOUTH FLORIDA NATURAL
GAS COMPANY

By: *[Signature]*

