

**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

Petition for review and determination on )  
the project construction and gas )  
transportation agreement between NUI ) DOCKET NO. 160175-GU  
Utilities, Inc. d/b/a City Gas Company )  
of Florida and Florida Crystals ) FILED: August 5, 2016  
Corporation, and approval of an )  
interim service arrangement. )  
\_\_\_\_\_ )

**FLORIDA CRYSTALS CORPORATION’S UNOPPOSED**  
**MOTION TO BE DESIGNATED A PARTY,**  
**OR IN THE ALTERNATIVE,**  
**MOTION TO INTERVENE**

Florida Crystals Corporation (“Florida Crystals”), pursuant to Chapters 120 and 366, Florida Statutes (“F.S.”),<sup>1</sup> and Rules 25-22.036, 25-22.039, 28-106.201, and 28-106.205, Florida Administrative Code (“F.A.C.”), hereby respectfully files this unopposed motion to be designated a party, or in the alternative, motion to intervene (the “Motion”) in the above-styled docket.

In summary, on July 22, 2016, Florida City Gas (“FCG”) initiated this docket by filing with the Florida Public Service Commission (the “Commission”) a “Petition for Review and Determination and Approval of Interim Service Agreement” (the “Petition”). In the Petition, FCG is seeking (1) a determination from the Commission that the “Project Construction and Gas Transportation Agreement By and Between NUI Utilities, Inc. d/b/a City Gas Company of Florida

<sup>1</sup> All references herein to the Florida Statutes are to the 2016 edition thereof.

and Florida Crystals Corporation dated April 24, 2001” (the “Gas Transportation Agreement”) is not a legally effective or enforceable special contract under Florida law and (2) the Commission’s approval of an interim service arrangement between FCG and Florida Crystals. Petition at 3, 23. Because the Petition asks the Commission to find the existing Gas Transportation Agreement between FCG and Florida Crystals “not legally effective” and because FCG is seeking the Commission’s approval of an interim service arrangement -- i.e., new rates -- specifically applicable to Florida Crystals, Florida Crystals is a necessary and indispensable party in this docket, and accordingly requests that the Commission immediately designate Florida Crystals as a full party to this docket. In the alternative, because Florida Crystals’ substantial interests will be directly affected by the issues raised and relief sought by FCG in this docket, Florida Crystals requests that the Commission allow Florida Crystals to immediately intervene in this docket.

In support of this Motion, Florida Crystals states as follows:

**PROCEDURAL BACKGROUND**

1. The name, address, and telephone number of Florida Crystals are as follows:

Florida Crystals Corporation  
One North Clematis Street  
Suite 200  
West Palm Beach, Florida 33401

Telephone: (561) 366-5100  
Attention: General Counsel

2. All pleadings, orders, and correspondence should be directed to Florida Crystals' representatives as follows:

Robert Scheffel Wright ([schef@gbwlegal.com](mailto:schef@gbwlegal.com))  
John T. LaVia, III ([jlavia@gbwlegal.com](mailto:jlavia@gbwlegal.com))  
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1300 Thomaswood Drive  
Tallahassee, Florida 32308  
Telephone: (850) 385-0070  
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With a courtesy copy to:

Gus Cepero ([Gus.Cepero@floridacrystals.com](mailto:Gus.Cepero@floridacrystals.com))  
Kathy Metzger ([Kathy.Metzger@floridacrystals.com](mailto:Kathy.Metzger@floridacrystals.com))  
Florida Crystals Corporation  
One North Clematis Street  
Suite 200  
West Palm Beach, Florida 33401  
Telephone: (561) 366-5100

3. The agency affected by this Motion is:

Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, Florida 32399-0850

4. This docket was initiated by FCG's filing its Petition on July 22, 2016. Accordingly, pursuant to Rule 25-22.039, F.A.C., Florida Crystals' alternative request to intervene is timely filed.

## STATEMENT OF AFFECTED INTERESTS

5. In 2001, FCG and Florida Crystals entered into the Gas Transportation Agreement. Florida Crystals has fully performed its obligations under the Gas Transportation Agreement and the Gas Transportation Agreement remains in full force and effect.

6. Pursuant to the terms of the Gas Transportation Agreement, Florida Crystals receives gas transportation service from FCG to its New Hope cogeneration facility, located near South Bay, Florida. The natural gas supplied under the Gas Transportation Agreement is used by a wholly-owned subsidiary of Florida Crystals (New Hope Power Company) to operate a cogeneration plant. The cogeneration plant provides process steam for the sugar mill and sugar refinery owned and operated by another wholly-owned subsidiary of Florida Crystals (the Okeelanta Corporation) at the New Hope cogeneration facility. The cogeneration plant also generates electricity for sale to the Florida electric power grid.

7. In the Petition, FCG seeks a determination by the Commission that the Gas Transportation Agreement is not legally effective or enforceable and further seeks approval of an interim service agreement, including new and higher rates, applicable only to Florida Crystals. Petition at 23. The Commission's action on either of these issues will directly affect Florida Crystals' substantial interests.

## **REQUEST TO BE DESIGNATED AS A FULL PARTY TO THIS DOCKET**

8. As FCG's counterparty in the Gas Transportation Agreement and as the customer for whom FCG is attempting to establish an interim service arrangement for future gas transportation services, Florida Crystals is a necessary and indispensable party to this docket. Florida Crystals has the right to fully participate in all aspects of this docket. Accordingly, Florida Crystals requests that the Commission immediately designate Florida Crystals as a full party to Docket No. 160175-GU so that it can file pleadings responsive to the Petition and otherwise fully participate in the docket.

## **ALTERNATIVE MOTION TO INTERVENE**

9. The issues raised in the Petition and the relief sought by FCG (finding the Gas Transportation Agreement to be unenforceable and approving an interim service agreement specifically applicable to Florida Crystals) directly affects Florida Crystals' substantial interests. Accordingly, Florida Crystals should be allowed to intervene in this docket.

## **Statement of Disputed Issues of Material Fact**

10. With regard to this Motion, Florida Crystals does not believe that there are any disputed issues of material fact under the Commission's applicable statutes. Florida Crystals' substantial interests will clearly be determined by the Commission's actions in this docket.

11. With regard to the Petition, FCG has not identified any disputed issues of fact in its Petition, and it is unclear from the face of the Petition what FCG believes are the disputed issues of material fact. Florida Crystals intends to file responsive pleadings addressing the merits of FCG's allegations.

**Statement of Ultimate Facts Alleged**

12. With regard to the Motion, Florida Crystals has demonstrated that its substantial interests will be directly affected by the issues raised by the Petition and the relief sought by FCG, and accordingly, Florida Crystals is entitled to intervene in this docket.

13. With regard to the Petition, Florida Crystals intends to file responsive pleadings addressing the merits of FCG's allegations.

**Statutes and Rules that Entitle Florida Crystals to Relief**

14. The applicable statutes and rules that entitle Florida Crystals to intervene in this docket include, but are not limited to, Sections 120.569 and 120(57)(1)&(2), F.S., and Rule 25-22.039 and Chapter 28-106, F.A.C. The cited rules provide that persons whose substantial interests will be affected by agency action are entitled to intervene. The cited sections of Chapter 120 provide that persons whose substantial interests will be affected are entitled to participate as parties in this type of proceeding.

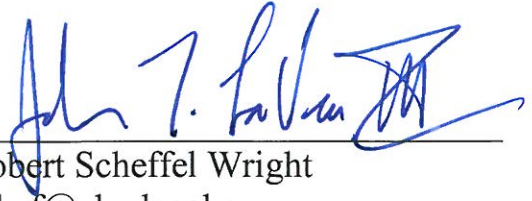
### **FCG'S POSITION ON MOTION**

15. Pursuant to Rule 28-106.204, F.A.C., undersigned counsel has consulted with counsel for FCG and is authorized to state that FCG has no objection to Florida Crystals being designated a party of record to the docket or intervention in the docket.

### **CONCLUSION AND RELIEF REQUESTED**

WHEREFORE, Florida Crystals Corporation respectfully requests the Commission to GRANT its request to be designated as a named party in the docket and that all parties to this proceeding serve copies of all pleadings, notices, and other documents to Florida Crystals' representatives indicated in paragraph 2, above. Alternatively, Florida Crystals respectfully requests the Commission to enter its order GRANTING Florida Crystals intervenor status and requiring that all parties to this proceeding serve copies of all pleadings, notices, and other documents to Florida Crystals' representatives indicated in paragraph 2 above.

Respectfully submitted this 5th day of August, 2016.

A handwritten signature in blue ink, appearing to read "John T. LaVia, III", written over a horizontal line.

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Attorneys for Florida Crystals



**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing was furnished to the following, by electronic delivery, on this 5th day of August, 2016.

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Florida Public Service Commission  
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