

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. 160175-GU
ORDER NO. PSC-17-0062-FOF-GU
ISSUED: February 27, 2017

The following Commissioners participated in the disposition of this matter:

JULIE I. BROWN, Chairman
ART GRAHAM
RONALD A. BRISÉ
JIMMY PATRONIS
DONALD J. POLMANN

ORDER GRANTING FLORIDA CRYSTALS CORPORATION'S
MOTION FOR CLARIFICATION

BY THE COMMISSION:

Background

Florida City Gas (FCG or City Gas) is an investor-owned natural gas utility subject to this Commission's jurisdiction, pursuant to Section 366.02(1), Florida Statutes (F.S.). Florida Crystals Corporation (Florida Crystals or Crystals) is a national sugar manufacturer.

On July 22, 2016, City Gas filed a Petition for Review and Determination on the "Project Construction and Gas Transportation Agreement (GTA) between NUI Utilities, Inc. d/b/a City Gas Company of Florida and Florida Crystals Corporation dated April 24, 2001" and Approval of an Interim Service Arrangement. City Gas filed a subsequent Motion for Approval of a Temporary Interim Service Arrangement on August 31, 2016. Florida Crystals filed several preliminary, procedural motions including: a Motion to be Designated a Party or in the Alternative Motion to Intervene; a Motion to Dismiss City Gas's Petition, along with a Request for Oral Argument; and a Response in Opposition to City Gas's Motion for Approval of a Temporary Interim Service Arrangement, along with a Request for Oral Argument. On September 19, 2016, City Gas filed its Response in Opposition to Florida Crystals' Motion to Dismiss Petition.

At the December 6, 2016, Agenda Conference, after considering the written and oral arguments provided by the parties, this Commission voted: (1) to deny Crystals' Motion to Dismiss; (2) to set the matter for hearing; (3) to grant Crystals' Motion to be Designated a Party or in the Alternative Motion to Intervene; (4) to deny City Gas's August 31, 2016 Motion for Approval of a Temporary Interim Service Arrangement; and (5) that the Make-Up Period GTA

rates shall be in effect for a transition period beginning on December 6, 2016, subject to true-up, until a final Commission decision in this docket. That vote was codified in Order No. PSC-16-0581-PCO-GU, issued on December 27, 2016. Florida Crystals is seeking clarification of that order.

On January 6, 2017, Florida Crystals filed its timely Motion for Clarification of Order No. PSC-16-0581-PCO-GU, pursuant to Rules 25-22.0376 and 28-106.204, Florida Administrative Code (F.A.C.). On January 13, 2017, City Gas filed its response to Crystals' motion. This Commission has jurisdiction pursuant to Sections 366.04, 366.05, and 366.06, F.S.

Florida Crystals' Motion for Clarification

Florida Crystals requested that this Commission clarify Order No. PSC-16-0581-PCO-GU (Order) to state:

This Order is preliminary and based solely on the representations of the Parties that the Commission has before it at this time. No Party is precluded from raising and identifying appropriate issues or from presenting evidence and argument on any issue in this case.

Crystals asserted that this clarification is necessary because it believes certain statements in the Order may be susceptible to being construed or interpreted as being declarative and potentially determinative of issues in this docket. Crystals also represented that it conferred with both City Gas and Commission staff prior to filing its motion and understood that both City Gas and Commission staff agreed that such clarification is appropriate and did not oppose such clarification being granted.

City Gas's Response

On January 13, 2017, City Gas filed its response to Crystals' motion. City Gas stated that its representatives previously informed Crystals that they believe clarification is unnecessary. Further, City Gas did not agree to Crystals' representation that City Gas agreed that clarification is appropriate. However, City Gas confirmed that it did agree to not oppose the motion.

Decision

We find that this Commission intended for the Order to be preliminary in nature, not declarative or determinative of issues in this docket. However, to the extent that Crystals' proposed language clarifies our intent, Crystals' Motion for Clarification shall be granted. Order No. PSC-16-0581-PCO-GU shall be clarified to state:

This Order is preliminary and based solely on the representations of the Parties that the Commission has before it at this time. No Party is precluded from raising and identifying appropriate issues or from presenting evidence and argument on any issue in this case.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that Florida Crystals Corporation's Motion for Clarification is granted as set forth in the body of this Order. It is further

ORDERED that this docket shall remain open pending this Commission's final action in this docket.

By ORDER of the Florida Public Service Commission this 27th day of February, 2017.



CARLOTTA S. STAUFFER
Commission Clerk
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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 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.

Any party adversely affected by the Commission's final action in this matter may request 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 by filing a notice of appeal with the Office of Commission Clerk, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, and filing a copy of the notice of appeal and the filing fee with the appropriate court. This filing must be completed within thirty (30) days after the issuance of this order, pursuant to Rule 9.110, Florida Rules of Appellate Procedure. The notice of appeal must be in the form specified in Rule 9.900(a), Florida Rules of Appellate Procedure.