

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Purchased Gas Adjustment) DOCKET NO. 970003-GU
(PGA) True-up.) ORDER NO. PSC-97-0539-CFO-GU
_____) ISSUED: May 9, 1997

ORDER GRANTING CITY GAS COMPANY'S REQUEST
FOR CONFIDENTIAL TREATMENT OF CERTAIN PORTIONS OF
ITS FEBRUARY 1997 PGA FILINGS
(DOCUMENT NO. 03056-97)

On March 24, 1997, City Gas Company of Florida ("City Gas" or "Company") filed a request for specified confidential treatment of certain items in its February 1997 PGA filing, including items in its Schedules A-3 and A-4, its current month invoices from third party suppliers for natural gas purchases, and its invoice summaries and imbalance dispositions. City Gas asserts that the information for which confidential treatment is sought is intended to be and is treated by the Company as proprietary and has not been publicly disclosed. The confidential information is found in Document No. 03056-97.

Florida law presumes that documents submitted to governmental agencies shall be public records. The only exceptions to this presumption are the specific statutory exemptions provided in the law and exemptions granted by governmental agencies pursuant to the specific terms of a statutory provision. This presumption is based on the concept that government should operate in the "sunshine." It is the Company's burden to demonstrate that the documents fall into one of the statutory examples set out in Section 366.093, Florida Statutes, or to demonstrate that the information is proprietary confidential information, the disclosure of which will cause the Company or its ratepayers harm.

To establish that material is proprietary confidential business information under Section 366.093(3)(d), Florida Statutes, a utility must demonstrate (1) that the information is contractual data, and (2) that disclosure of the data would impair the efforts of the utility to contract for goods or services on favorable terms. The Commission has previously recognized that the latter requirement does not necessitate the showing of actual impairment, or the more demanding standard of actual adverse results; instead, it must simply be shown that disclosure is "reasonably likely" to impair the Company's contracting for goods or services on favorable terms.

City Gas argues that public knowledge of the information for which it seeks confidential classification would impair the efforts of City Gas to contract for goods or services on favorable terms. Thus, City Gas claims, this information should be given confidential treatment.

DOCUMENT NUMBER-DATE

04678 MAY-96

FPSC-RECORDS/REPORTING

City Gas requests confidential treatment for the information at Lines 2-8, Columns A-K of Schedule A-3. City Gas states that this schedule identifies the Company's gas suppliers, as well as the price and volume of gas that the Company purchased for the month. City Gas claims that disclosure of these numbers is reasonably likely to impair the Company's efforts to contract for goods and services on favorable terms.

City Gas also requests confidential treatment for the information at Lines 1-11, Columns A, C, D, E, F, G, and H of Schedule A-4. City Gas contends that this information represents negotiated gas supply packages purchased from vendors. City Gas states that these prices vary according to the operational flexibility of each contract. The Company argues that release of any information therein would be detrimental to the interests of the Company and its customers since it would provide competitors with a list of City Gas' suppliers, volumes purchased, and costs by gas supply source. City Gas claims that publication of this information would impair the Company's efforts to contract for goods and services on favorable terms.

City Gas requests confidential treatment for the entirety of pages B9 through B21 and pages C1 and C2 of its Gas Invoices for February 1997. City Gas states that these third-party gas invoices represent negotiated gas supply packages and contain data that must be kept confidential according to contractual terms between the Company and individual suppliers. City Gas argues that release of information such as the supplier's identity or the price and quantity of gas purchased may impair the efforts of City Gas to contract for goods or services on favorable terms.

City Gas claims that it is necessary to keep the entirety of each invoice confidential, because any person familiar with the format, fonts, and/or type sizes that each gas supplier uses in constructing respective invoices can easily determine the supplier's identity. Alternatively, City Gas requests confidentiality for the following information: the supplier's identity, address, and phone number; length of the contract; invoice date; invoice number; contract number; customer identification number; description of service; average daily therm usage; name, address, and phone number of contact person; points of gas receipt and delivery; transaction date; rate codes; base rates; surcharges and discounts; volumes; and payment due. City Gas argues that release of such information may lead suppliers to fix prices at inflated levels, and as a consequence, ratepayers may pay higher gas costs.

In conjunction with the Gas Invoices, City Gas filed a Schedule that summarizes all gas invoices and imbalance dispositions. City Gas states that this schedule is intended to facilitate the Commission's review of the filing. For the reasons stated in the preceding two paragraphs, City Gas requests confidential classification for the highlighted portions of its summary schedule for February 1997. Those highlighted portions include all columns at lines 41-48, page 9; all columns at lines 15-30 and lines 38-45, page 10; and all columns at lines 14, 15, and 23-25, page 11.

I find that the information discussed above is proprietary confidential business information and should be given confidential treatment to avoid harm to City Gas and its ratepayers. City Gas requests that this information not be declassified for a period of 18 months. Section 366.093(4), Florida Statutes, states that any Commission finding that records contain proprietary confidential business information will remain effective for a period set by the Commission not to exceed 18 months, unless the Commission finds, for good cause, that protection from disclosure shall be made for a specified longer period. It is noted that this 18 month time period of confidential classification will ultimately protect City Gas and its ratepayers. The request for a confidential classification period of 18 months shall, therefore, be granted.

In consideration of the foregoing, it is therefore

ORDERED by Commissioner J. Terry Deason, as Prehearing Officer, that the information in Document No. 03056-97 for which confidential treatment was requested shall be treated as proprietary confidential business information to the extent discussed above. It is further

ORDERED that the information discussed above shall be afforded confidential treatment for a period of 18 months from the issuance date of this Order. It is further

ORDERED that this Order will be the only notification by the Commission to the parties concerning the expiration of the confidentiality time period.

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By ORDER of Commissioner J. Terry Deason, as Prehearing Officer, this 9th day of May, 1997.



J. TERRY DEASON, Commissioner and
Prehearing Officer

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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.

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, if issued by a Prehearing Officer; (2) reconsideration within 15 days pursuant to Rule 25-22.060, Florida Administrative Code, if issued by the Commission; or (3) 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 Director, Division of Records and Reporting, in the form prescribed by Rule 25-22.060, 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.