



RECEIVED-EPSC
Public Service Commission

08 FEB -5 PM 3:06
CAPITOL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD
TALLAHASSEE, FLORIDA 32399-0850

COMMISSION
CLERK

-M-E-M-O-R-A-N-D-U-M-

DATE: February 4, 2008

TO: Katherine Fleming, Attorney, General Counsel

FROM: Division of Regulatory Compliance and Consumer Affairs (Freeman, Vandiver) ^{F W}

RE: Docket 070003-GU, Recommendation concerning the Florida City Gas' request for confidential classification concerning staff's working papers prepared during the audit entitled "Florida City Gas Purchased Gas Adjustment Supplemental Audit for the Year Ended December 31, 2006", Audit Control No. 07-067-4-1, Documents Numbered 08291-07 and 11100-07

On September 7, 2007, at the audit exit conference, Florida City Gas requested that certain portions of staff's working papers prepared during the audit titled "Florida City Gas Purchased Gas Adjustment Supplemental Audit for the Year Ended December 31, 2006", be held in a temporary confidential status in accordance with Rule 25-22.006(3)(a)2., Florida Administrative Code (FAC).

On September 13, 2007, staff filed those working papers with the Office of the Commission Clerk (Document No. 08291-07).

On December 20, 2007, Florida City Gas filed its request for confidential classification for certain portions of the working papers pursuant to Section 366.093, Florida Statutes (F.S.), and Rule 25-22.006, FAC. The Florida City Gas request included redacted copies of the materials for public use (Document 11101-07) and copies of the materials with the sensitive portions highlighted (Document 11100-07).

Documents 08291-07 and 11100-07 are currently held by the Commission Clerk as confidential pending resolution of the Florida City Gas request for confidential classification.

- CMP** _____
- COM** _____
- CTR** _____
- ECR** _____
- GCL** _____
- OPC** _____
- RCA** _____
- SCR** _____
- SGA** _____
- SEC** _____
- OTH** M.L

DOCUMENT NUMBER-DATE

00921 FEB-5 8

FPSC-COMMISSION CLERK

February 4, 2008
Florida City Gas Request

Subsection 366.093, F.S., provides; "Proprietary confidential business information means information, regardless of form or characteristics, which is owned or controlled by the person or company, is intended to be and is treated by the person or company as private in that the disclosure of the information would cause harm to the ratepayers or the person's or company's business operations, and has not been disclosed unless disclosed pursuant to a statutory provision, an order of a court or administrative body, or private agreement that provides that the information will not be released to the public. Proprietary confidential business information includes but is not limited to:

....

(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.

...."

According to Section 366.093, F.S., and Rule 25-22.006, FAC, the utility has the burden of demonstrating that materials qualify for confidential classification. According to Rule 25-22.006, FAC, the utility must meet this burden by demonstrating that the information is proprietary confidential business information, the disclosure of which will cause the utility, the provider of the information or the ratepayer harm.

Staff Analysis of the Request

Late Filing

Rule 25-22.006(3)(a)2., FAC, provides that absent good cause, failure to file a request [for confidential classification] within 21 days shall constitute a waiver of confidentiality. Here the request was filed more than 21 days after the audit exit conference. Conversations with the utility revealed the documents were delivered by the PSC staff auditor to the Florida City Gas management in Miami on September 9, 2007, and apparently through error, the request for confidential classification made with the Commission Clerk was late. Nor did City Gas include a description of good cause for the late filing in its December 20, 2007 request for confidentiality.

The recommendation concerning if a filing is timely is the responsibility of the General Counsel's Office. Technical staff has no objections to considering this request as timely.

Contents of the Request for Confidential Classification

Reading the Florida City Gas filing reveals the sensitive material consists of sensitive contractual information.

Florida City Gas pleads that specific contractual information, prices, and pricing data should not be disclosed as release of this information would impair the efforts of Florida City Gas to contract for goods and services on favorable terms. Sensitive contractual information may be granted a confidential classification based upon the provisions of Section 366.093(3)(d), F.S. Therefore, based upon reading this filing, we agree with the utility that this is sensitive contractual information and recommend that the information identified by Florida City Gas as sensitive in their December 20, 2007, filing be granted a confidential classification.

Material held as Confidential

Florida City Gas states these documents are treated as private and the information has not been publicly disclosed. Further, Florida City Gas asserts that the identified material meets the definition of “proprietary confidential business information” as described in Section 366.093(3), F.S., and Rule 25-22.006(1)(a), FAC.

Duration of the Confidential Classification Period

Florida City Gas requests that this material be granted a confidential classification for at least 18 months. Further, the utility requests that this material be returned as soon as the information is no longer necessary for the Commission to conduct its business.

According to the provisions of Section 366.093(4), F.S., absent good cause shown for a longer period, confidential classification is limited to 18 months. Without cause shown for a longer period, we recommend that the period of confidential classification be set as 18 months. As deemed necessary, the utility may request an extension of the confidential classification before the period tolls.

Staff Recommendation

Based upon reading the filing, and for the reasons presented above, we recommend the utility’s request be granted and that the identified material be granted a confidential classification for 18 months. A detailed summary recommendation follows:

Detailed Summary Recommendation

Working Paper Number	Description	Page(s)	Line(s)	Recommend	Type of Information Classified Confidential
Documents 08291-07 and 11100-07					
43-1	Sequent Comparison	1	Weighted Average Price: lines 1-2 Sequent Purchase Price Column; FOM Price Column; Difference Columns; Auditor Notes Column; Auditor's notes; lines1-2	Grant	Sensitive Contractual Information
43-1	Sequent Comparison	2-3	Weighted Average Price: lines 1-4 Sequent Purchase Price Column; FOM Price Column; Difference Columns;	Grant	Sensitive Contractual Information
43-1	Sequent Comparison	4	Weighted Average Price: lines 1-7 Sequent Purchase Price Column; FOM Price Column; Difference Columns;	Grant	Sensitive Contractual Information

Working Paper Number	Description	Page(s)	Line(s)	Recommend	Type of Information Classified Confidential
Documents 08291-07 and 11100-07					
43-1	Sequent Comparison	5-9	Weighted Average Price: lines 1-6 Sequent Purchase Price Column; FOM Price Column; Difference Columns;	Grant	Sensitive Contractual Information
43-1	Sequent Comparison	10	Weighted Average Price: lines 1-4 Sequent Purchase Price Column; FOM Price Column; Difference Columns;	Grant	Sensitive Contractual Information
43-1	Sequent Comparison	11	Weighted Average Price: lines 1-3 Sequent Purchase Price Column; FOM Price Column; Difference Columns;	Grant	Sensitive Contractual Information
43-1	Sequent Comparison	12	Weighted Average Price: lines 1-4 Sequent Purchase Price Column; FOM Price Column; Difference Columns;	Grant	Sensitive Contractual Information
43-1/1-1	Deal Ticket Review	2	Counterparty Column; Spread Column	Grant	Sensitive Contractual Information
43-1/2	Sequent Explanation	1	1-2	Grant	Sensitive Contractual Information

Working Paper Number	Description	Page(s)	Line(s)	Recommend	Type of Information Classified Confidential
Documents 08291-07 and 11100-07					
43-1/2, page 1	Sequent Explanation	1	1	Grant	Sensitive Contractual Information
43-1/2, page 2	Sequent Explanation	1	1-5	Grant	Sensitive Contractual Information
43-1/2, page 3	Sequent Explanation	1	1-14	Grant	Sensitive Contractual Information
43-1/2-1	Spot Comparison	1	Price Columns; Amount Columns; Value Column; Line 1	Grant	Sensitive Contractual Information
43-1/3	Sequent Expenses	1	1-9	Grant	Sensitive Contractual Information
43-2	May Comparison	1	Weighted Average Price: lines 1-6 Sequent Purchase Price Column; FOM Price Column; Difference Columns;	Grant	Sensitive Contractual Information
43-4	Sequent Costs	1	Total Cost Column; Z1 Cost Column; Z-2 Cost Column; Z-3 Cost Column; Lines 1-7	Grant	Sensitive Contractual Information

A temporary copy of this recommendation will be held at I:11100-07.city gas pga raf.doc for a short period.

CC: Division of Regulatory Compliance and Consumer Affairs (Welch)
Office of the Commission Clerk (Lockhard, Cole)