

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Joint petition for approval of natural gas transportation service agreement between Florida City Gas and Miami-Dade County, through Miami-Dade Water and Sewer Department.

DOCKET NO. 130089-GU
ORDER NO. PSC-13-0246-CFO-GU
ISSUED: June 4, 2013

ORDER GRANTING FLORIDA CITY GAS'S REQUEST FOR
CONFIDENTIAL CLASSIFICATION (DOCUMENT NO. 02131-13)

On April 23, 2013, pursuant to Section 366.093, Florida Statutes (F.S.), and Rule 25-22.006, Florida Administrative Code (F.A.C.), Florida City Gas (FCG) filed its request for confidential classification of certain information submitted as exhibits to the Joint Petition for Approval of the 2014 Natural Gas Transportation Service Agreement between FCG and Miami Dade County, Florida (County), specifically portions of Exhibits A and D (Document No. 02131-13).

Section 366.093(1), F.S., provides that "any records received by the commission which are shown and found by the commission to be proprietary confidential business information shall be kept confidential and shall be exempt from Section 119.07(1) [the Public Records Act]." Section 366.093(3), F.S., defines proprietary confidential business information as information that is intended to be and is treated by the company as private, in that disclosure of the information would cause harm to the company's ratepayers or business operations, and has not been voluntarily disclosed to the public. Sections 366.093(3)(d) and (e), F.S., provide that proprietary confidential business information includes, but is not limited to "[i]nformation 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" and "[i]nformation relating to competitive interests, the disclosure of which would impair the competitive business of the provider of the information."

FCG contends that designated portions of Exhibits A and D, as more specifically described on a page and line-by-line basis in the Justification Matrix in Attachment 1 to its Request, fall within these categories and, thus, constitute proprietary confidential business information entitled to protection under Section 366.093, F.S., and Rule 25-22.006, F.A.C. FCG states that the highlighted portions of Exhibit A to its Request, the Transportation Services Agreement (TSA), contain customer-specific information, take or pay minimum volumes, rate tier volumes, the FCG cost rate per tier, the FCG margin in dollars and percentage, the County bypass rate and County bypass cost less the 2014 TSA rate. FCG states that Exhibit D, the Cost of Service Study, contains the same information as that found in Exhibit A as well as FCG's cost study analysis and results for the TSA rates for the years 2014-2018. FCG states that this information is intended to be and is treated by FCG as private and has not been publicly disclosed.

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FCG asserts that disclosure of this information would negatively impact FCG's ability to negotiate favorable pricing in future contracts since its disclosure would allow a potential customer to discern the methodology for the cost study as well as calculate the bottom line cost rates appearing in the study. This type of information would allow that customer to negotiate a contract rate under FCG's LES tariff.

Time Period For Confidential Classification

FCG requests confidential classification for this information for a period of 18 months. According to Section 366.093(4), F.S., confidential classification may only extend for 18 months from the issuance of an Order granting confidential classification unless "the Commission finds, for good cause, that the protection from disclosure shall be for a specified longer period."

Ruling

Upon review, it appears the above-referenced information satisfies the criteria set forth in Section 366.093(3), F.S., for classification as proprietary confidential business information. The information constitutes "[i]nformation 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." Thus, the information identified in Document No. 02131-13 shall be granted confidential classification.

Pursuant to Section 366.093(4), F.S., the information for which confidential classification is granted herein shall remain protected from disclosure for a period of 18 months from the date of issuance of this Order. At the conclusion of the 18-month period, the confidential information will no longer be exempt from Section 119.07(1), F.S., unless FCG or another affected person shows, and the Commission finds, that the records continue to contain proprietary confidential business information.


Based on the foregoing, it is

ORDERED by Commissioner Lisa Polak Edgar, as Prehearing Officer, that Florida City Gas' Request for Confidential Classification of Document No. 02131-13 is granted. It is further

ORDERED that the information in Document No. 02131-13 for which confidential classification has been granted, shall remain protected from disclosure for a period of 18 months from the date of issuance of this Order. It is further

ORDERED that this Order shall be the only notification by the Commission to the parties of the date of declassification of the materials discussed herein.

By ORDER of Commissioner Lisa Polak Edgar, as Prehearing Officer, this 4th day of
June, 2013.


LISA POLAK EDGAR
Commissioner and Prehearing Officer
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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.

SBr

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.

Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

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; or (2) 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 Office of Commission Clerk, in the form prescribed by Rule 25-22.0376, 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.