

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. 20160175-GU  
ORDER NO. PSC-2017-0386-CFO-GU  
ISSUED: October 11, 2017

ORDER GRANTING FLORIDA CITY GAS'S REQUEST FOR CONFIDENTIAL CLASSIFICATION (DOCUMENT NO. 07058-2017)

On August 14, 2017, 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 a Request for Confidential Classification (Request) of certain information provided in the executed copy of the Amended and Restated Gas Transportation Agreement (Amended and Restated GTA) signed by the authorized representatives of FCG and Florida Crystals Corporation (Florida Crystals), filed August 14, 2017, (Document No. 07058-2017). This request was filed in Docket No. 20160175-GU.

Request for Confidential Classification

FCG contends that certain information contained in the Amended and Restated GTA, more specifically identified by page, line, and statutory justification in Attachment 1 to its Request, constitutes proprietary confidential business information entitled to protection under Section 366.093, F.S., and Rule 25-22.006, F.A.C. FCG affirms that the information has not been disclosed to the public.

Order No. PSC-2017-0296-FOF-GU, issued on August 2, 2017, required FCG to file an executed copy of the Amended and Restated GTA with the Florida Public Service Commission (Commission) within 10 days of the issuance of that Order. FCG asserts that the executed copy of the Amended and Restated GTA (Document No. 07058-2017), filed August 14, 2017, is the exact same document as Document No. 04699-17, but for the signatures on the last page. FCG's request for confidential treatment of certain information contained within Document No. 04699-17 was granted by Order No. PSC-2017-0272-CFO-GU, issued July 13, 2017. Accordingly, FCG requests that Document No. 07058-2017 be granted the same confidential protection for the same period of time set forth for Document No. 04699-17 in Order No. PSC-2017-0272-CFO-GU.

FCG asserts that the information at issue relates to trade secrets of FCG, customer specific rates, gas volumes to be transported, rate adjustment terms, and related commercially sensitive conditions of service being made available to Florida Crystals that are not available to any other customer. FCG further asserts that if the rates and other terms were made public, such disclosure would harm FCG's competitive interests by impairing the ability to negotiate future

special contracts with other customers. Therefore, FCG argues that such information is entitled to confidential classification pursuant to Sections 366.093(3)(a), (d), and (e), F.S.

### Ruling

Section 366.093(1), F.S., provides that records the Commission has found to contain proprietary business information shall be kept confidential and shall be exempt from Chapter 119, F.S. 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. Section 366.093(3), F.S., provides that proprietary confidential business information includes, but is not limited to:

(a) Trade secrets.

(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.

(e) Information relating to competitive interests, the disclosure of which would impair the competitive business of the provider of the information.

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 described above appears to be "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" and "information relating to competitive interests, the disclosure of which would impair the competitive business of the provider of the information." Thus, the information identified in Document No. 07058-2017 shall be granted confidential classification. Although FCG also asserted that this information contains trade secrets. However, an evaluation of protection under Section 366.093(3)(a), F.S. is unnecessary as the information meets the requirements set forth in Sections 366.093(3)(d) and (e), F.S.

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 up to 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 hereby

ORDERED by Chairman Julie I. Brown, as Prehearing Officer, that Florida City Gas's Request for Confidential Classification of Document No. 07058-2017 is granted. It is further

ORDERED that the information in Document No. 07058-2017, for which confidential classification has been granted, shall remain protected from disclosure for a period of up to 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 Chairman Julie I. Brown, as Prehearing Officer, this 11th day of October, 2017.



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Chairman 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.

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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.

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.