

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Purchased Gas Adjustment) DOCKET NO. 960003-GU
(PGA) True-Up.) ORDER NO. PSC-96-0343-CFO-GU
_____) ISSUED: March 11, 1996

ORDER ON FLORIDA PUBLIC UTILITIES COMPANY'S REQUEST FOR
CONFIDENTIAL TREATMENT OF PORTIONS OF AUDIT WORKPAPERS

Pursuant to Rule 25-22.006(4), Florida Administrative Code, Florida Public Utilities Company (FPUC) has requested specified confidential treatment of portions of the Commission Staff's Audit Work Papers pertaining to the Commission Staff's PGA Audit for the period October, 1994 through September, 1995 (Document Nos. 12351-95 and 12925-95). FPUC notes that the information contained in this filing is the same information found in FPUC's prior PGA filings that has already been granted confidentiality in prior Commission orders.

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.

The Florida Legislature has determined that "[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" is proprietary confidential business information. Section 366.093(3)(d), Florida Statutes.

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 the 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 this 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.

DOCUMENT NUMBER-DATE

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FPUC requests confidential treatment of information relating to its negotiated gas supply packages purchased from suppliers other than Florida Gas Transmission Company. This data contains the names of other FPUC gas suppliers, information on the volume purchased and the price paid for gas from each supplier. FPUC argues that the release of this information would be detrimental to FPUC because it would provide competing suppliers with information which would give them an advantage over FPUC and would make suppliers less likely to make price concessions. FPUC asserts that the release of this information has the potential to lead to inflated price fixing by gas suppliers. This could lead to higher gas costs which FPUC would pass on to its customers. FPUC argues that this . . . "would impair the efforts of [Florida Public Utilities Company] to contract for goods or services on favorable terms." Section 366.093 (3)(d), Florida Statutes.

FPUC also requests confidential treatment of information relating to the fuel cost it paid its gas suppliers. FPUC asserts that releasing this information could result in higher gas costs to FPUC's customers because it would enable a third party to compute FPUC's cost of gas by supplier. FPUC argues that this is contractual data, the disclosure of which could impair FPUC's ability to contract for goods and services on favorable terms.

FPUC also seeks confidential treatment of information relating to its natural gas supply invoices and related transactions, except those pertaining to FGT. FPUC argues that release of the gas suppliers' identities, period the invoices are for, account numbers, invoice numbers, dates, payment due dates, description of services, pipeline name, upstream pipeline name, corresponding volumes and unit prices, the price computation methodologies based on contract terms between suppliers and FPUC, receipt point, meter numbers, volumes, amounts, payment instructions, suppliers' accounting and/or gas control representatives' names, telephone numbers and all subtotals and totals would provide competing gas suppliers with an advantage over FPUC, which would likely lead to the reduced likelihood that suppliers would make price concessions. As such, the release of this information could lead to inflated prices from gas suppliers and increased costs for customers. In addition, FPUC asserts that anyone familiar with the format, fonts and type sizes used by gas suppliers in their invoices could use that knowledge to determine the above information. FPUC, therefore, requests that every element of the gas supply invoices, except the invoices from FGT, be given confidential status. Clearly, release of this information "would impair the efforts of [Florida Public Utilities Company] to contract for goods or services on favorable terms.

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Further, FPUC seeks confidential treatment for information pertaining to its imbalances traded. The imbalance resolutions are transactions with other pipeline customers. FPUC asserts that release of any of the information in the imbalance resolutions would allow other pipeline customers to ascertain the parties involved and the amounts concerned. FPUC argues that this would put future transactions of the sort at risk. FPUC argues that this is contractual information which, if made public, "would impair the efforts of [Florida Public Utilities Company] to contract for goods or services on favorable terms." Section 366.093 (3) (d), Florida Statutes.

FPUC also seeks confidential treatment of the information relating to revenue received and credited to its PGA for imbalances traded, as an alternative to FGT's relinquishment program. This information relates to transactions with customers on and off FPUC's distribution system. FPUC asserts that it must be assured that no other firm capacity holder on FGT will be able to ascertain the customers involved in these transactions with FPUC or to determine the prices of the components of such transactions, except for the FGT commodity rate. FPUC argues that the quantities should also be given confidential treatment. Should this information be revealed, FPUC asserts that future transactions might be put at undue risk. FPUC, therefore, requests confidential treatment of the names of the customers, the total units purchased and sold, all negotiable pricing information and commodity information. Of the pricing information, FPUC asserts that only the FGT-1 usage charge should be made public since it is a non-negotiable tariff rate. FPUC states that this is contractual information which, if made public, "would impair the efforts of [Florida Public Utilities Company] to contract for goods or services on favorable terms." Section 366.093 (3) (d), Florida Statutes.

FPUC asserts that it treats the information discussed above as proprietary, and that this information has not been publicly disclosed.

The specific audit workpaper numbers and lines relating to the documents that petitioner has requested confidential treatment, along with my findings, are listed in the table which follows:

Working Paper	Page Number	Line(s)	Column(s)	Ruling	Reason as Stated Above
Material from documents 12351-95 and 12925-95					
43-2/1-6 p4	Audit 27	1-28	Producer Name, Receipt Point, Gross amount, Net Amount, Monthly Gross, Monthly Net, Wellhead Price, Citygate Price	Granted	(1 and 2) Reports suppliers, volume purchased, and costs by supply source.
43-3/2-2	Audit 40	1-16	"	Granted	"
43-1/1 p4	Audit 1	1-80	All	Granted	(3) Provides copies of gas invoices and other related documents
43-1/1 p5	Audit 2	1-80	All	Granted	"
43-1/1 p6	Audit 3	1-80	All	Granted	"

Material from documents 12351-95 and 12925-95					
43-1/1 p7	Audit 4	1-80	All	Granted	(3) Provides copies of gas invoices and other related documents
43-1/1 p8	Audit 5	1-80	All	Granted	"
43-1/1 p9	Audit 6	1-80	All	Granted	"
43-2/1-1 p7	Audit 15	1-80	All	Granted	"
43-2/1-1 p8	Audit 16	1-80	All	Granted	"
43-2/1-1 p9	Audit 17	1-80	All	Granted	"
43-2/1-1 p10	Audit 18	1-80	All	Granted	"
43-2/1-1 p11	Audit 19	1-80	All	Granted	"
43-2/1-1 p12	Audit 20	1-80	All	Granted	"
43-2/1- 6/1-1	Audit 29	1-80	All	Granted	"
43-3/1-1 p8	Audit 31	1-80	All	Granted	"
43-3/1-1 p9	Audit 32	1-80	All	Granted	"
43-3/1-1 p10	Audit 33	1-80	All	Granted	"

Material from documents 12351-95 and 12925-95					
43-3/1-1 p11	Audit 34	1-80	All	Granted	"
43-2/1	Audit 14	24-29	Invoice Number, Vendor Name, System Supply, End Users, OSSS Current, OSSS Prior Period, and Invoice Total	Granted	(1,2,3, and 4) Reports supplier, cost of gas, volume purchased, allows price of gas to be computed, provides copy of gas invoice, or provides informatio n regarding settlement of imbalances
43-3/1	Audit 30	23-29	"	Granted	"

Material from documents 12351-95 and 12925-95					
43-1/2-1 p1	Audit 8	10-13 19, 21, 25 23 27 29, 31	A, B E, F, G E, G G B, C, D, E	Granted	(4) Provides informatio n regarding settlement of imbalances
43-1/2-1 p2	Audit 9	11-15 21, 22, 24 26 28 31	A, B E, F, G E, G G A, B, C, D, E	Granted	"
43-1/2-1 p3	Audit 10	11-14 20, 26 20, 21, 26 28	A, B, C A, B, C E, F, G E, G	Granted	"
43-1/2-1 p4	Audit 11	11-14 20, 22 23-24 26	A, B A, B, C, E, F, G E, F, G E, G	Granted	"
43-2/1-1 p13	Audit 21	10-13 15 19, 20, 22 24 26 28 30-32	A, B C E, F, G E, G E, F, G G B, C, D, E	Granted	"

Material from documents 12351-95 and 12925-95					
43-2/1-5 p2	Audit 22	9-12 18, 20, 24 22 26 28, 30	A, B E, F, G E, G G B, C, D, E	Granted	(4) Provides informatio n regarding settlement of imbalances
43-2/1-6 p2	Audit 25	10-13 19, 21, 25 23 27 29, 31	A, B E, F, G E, G G B, C, D, E	Granted	"
43-3/1-1 p12	Audit 35	11-14 20 22	A, B E, F, G G	Granted	"
43-3/1-1 p13	Audit 36	11-14 20 22	A, B, C E, F, G E, G	Granted	"
43-3/1-1 p14	Audit 37	11-14 20 22	A, B, C E, F, G G	Granted	"
43-3/2-1	Audit 39	10-13 15 19, 20, 22 24 26 28 30-32	A, B C E, F, G E, G E, F, G G B, C, D, E	Granted	"
41-4/1-6 p1	Audit 42	9-12 18, 20, 24 22 26 28, 30	A, B E, F, G E, G G B, C, D, E	Granted	"

Material from documents 12351-95 and 12925-95					
41-4/1-6 p2	Audit 43	10-13 19, 21,25 23 27 29,31	A,B E,F,G E,G G B,C,D,E	Granted	"
43-1/2	Audit 7	7,9, 11,13 15	A,C,E,G,I C,E,G,I	Granted	"
43-1/2-2 p1	Audit 12	3 9-26 39	D,E,F B-I B,D,F,H,I	Granted	(4) Provides informatio n regarding settlement of imbalances .
13-1/2-2 p2	Audit 13	43 49-69 79	D,E,F B,C,D,E,F, G,H,I B,D,F,H,I	Granted	"
43-2/1-5 p3	Audit 23	3,4 10 12 14,18 16	D-G B,D,F B,D B,D,F,H,J B,D,F,J	Granted	"

Material from documents 12351-95 and 12925-95					
43-2/1-5 p5	Audit 24	1 6-39 42-44	B-F,H-L,N- R,T-X,AA- AC B,D,F,H,J, L,N,P,R, T,VX,Z AB,AD, AF,AH,AJ F-J	Granted	"
43-2/1-6 p3	Audit 26	3, 4 10 12 14 16 18	D,E,F,G B,D,F B,D B,D,F,H,J B,D,F,J B,D,F,H,J	Granted	"
43-3/2	Audit 38	3, 4 10 12 14 16 18	D,E,F,G B,D,F B,D B,D,F,H,J B,D,F,J B,D,F,H,J	Granted	"

Material from documents 12351-95 and 12925-95					
43-2/1-6/1	Audit 28	10 10-16	A B	Granted	(1,2, and 3) Reports supplier, volume purchased, cost by supply source; Allows price of gas to be computed; and Provides copies of gas invoices and related documents.
43-3/2-2/1	Audit 41	10,20, 29 10-34	A B	Granted	"

FPUC requests that the proprietary information discussed herein be treated as confidential for a period of 18 months from the date of the issuance of this order, as allowed by Section 366.093(4), Florida Statutes. FPUC argues that this period is necessary to allow it time to negotiate future purchase contracts with its suppliers/competitors. If this information were disclosed at an earlier date, competitors would have access to information which could adversely effect the ability of the utility to negotiate future contracts on favorable terms. It should be noted that this time period of confidentiality classification will ultimately protect the petitioner and its ratepayers.

Based on the foregoing, it is

ORDERED that Florida Public Utilities Company's request for specified confidential treatment of Staff's Audit Workpapers, identified in this docket as Documents Nos. 12351-95 and 12925-95, is granted. It is further

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ORDERED that pursuant to Section 366.093, Florida Statutes, and Rule 25-22.006, Florida Administrative Code, any confidentiality granted to the documents specified herein shall expire eighteen (18) months from the date of issuance of this Order in the absence of a renewed request for confidentiality pursuant to Section 366.093. 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.

By ORDER of Commissioner J. Terry Deason, as Prehearing Officer, this 11th day of March, 1996.



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 120.59(4), 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 25-22.038(2), 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.