

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition by Peoples Gas System for issuance of an order to the City of Leesburg and South Sumter Gas Company, LLC, to show cause why they should not be regulated by the Commission as a public utility as defined in Section 366.02(1), F.S., etc.

DOCKET NO. 20180085-GU
ORDER NO. PSC-2018-0257-PCO-GU
ISSUED: May 24, 2018

ORDER GRANTING INTERVENTION TO CITY OF LEESBURG

On April 2, 2018, Peoples Gas System (Peoples) filed a petition pursuant to Sections 120.565, 366.02(1) and 366.04(3)(b), Florida Statutes (F.S.), requesting that the Commission issue an order to show cause the City of Leesburg (Leesburg) and/or South Sumter Gas Company, LLC, (SSGC) as to why they should not be regulated by the Commission as a public utility as defined in Section 366.02(1), F.S. (Petition). The Petition also requests that, in the alternative, the Commission issue a declaratory statement as to which utility, either Leesburg or SSGC, Peoples should negotiate with in an effort to resolve the territorial dispute initiated by Peoples in Docket No. 20180055-GU.¹ On April 26, 2018, Leesburg requested permission to intervene in this proceeding.

Standards for Intervention and Analysis

Rule 28-105.0027(1), Florida Administrative Code (F.A.C.), governs intervention for declaratory statements. Rule 28-105.0027(1), F.A.C., provides that persons, other than the original parties to a pending proceeding, whose substantial interests will be affected by the disposition of the declaratory statement and who desire to become parties may move the presiding officer for leave to intervene.

To have standing in an administrative proceeding, an intervenor must meet the two-prong standing test set forth in *Agrico Chemical Co. v. Environmental Regulation*, 406 So. 2d 478, 482 (Fla. 2d DCA 1981) (*Agrico*). An intervenor must show that: (1) it will suffer injury in fact, which is of sufficient immediacy to entitle them to a Section 120.57, Florida Statutes (F.S.), hearing; and (2) the substantial injury is of a type or nature which the proceeding is designed to protect. The first element addresses the degree of the injury. The second requirement for standing addresses the nature of the injury. The injury must be both real and immediate and not speculative or conjectural. *Int'l Jai-Alai Players v. Florida Pari-Mutuel Comm'n*, 561 So. 2d 1224, 1225-26 (Fla. 3d DCA 1990).

In Leesburg's Motion to Intervene, Leesburg states that Peoples' Petition requests declarations about Leesburg's contractual agreements. Leesburg states its substantial interests are subject to determination and therefore requests full party status in this docket.

¹On February 23, 2018, Peoples filed a Petition to resolve territorial dispute in Sumter County and/or Lake County with Leesburg and/or SSGC in Docket No. 20180055-GU.

I find that because Leesburg is specifically named in Peoples' Petition, Leesburg's substantial interests will be affected by these proceedings. I also find that because Leesburg is specifically named in Peoples' Petition, Leesburg meets the two-prong test in *Agrico*. For these reasons, Leesburg's Motion to Intervene shall be granted.

Based on the above representations, it is

ORDERED by Commissioner Donald J. Polmann, as Prehearing Officer, that the Motion to Intervene filed by City of Leesburg is hereby granted as set forth in the body of this Order. It is further

ORDERED that City of Leesburg takes the case as it finds it. It is further

ORDERED that all parties to this proceeding shall furnish copies of all testimony, exhibits, pleadings, and other documents which may hereinafter be filed in this proceeding to:

John L. C. Moyle
Karen A. Putnal
Moyle Law Firm, P.A.
jmoyle@moylelaw.com
kputnal@moylelaw.com
118 North Gadsen Street
Tallahassee, Florida 32301
T: (850) 681-3828
F: (850) 681-8788
Counsel for City of Leesburg

Jack Rogers
Gas Director
City of Leesburg
306 S. 6th Street
Leesburg, FL 34748
Jack.rogers@leesburgflorida.gov

By ORDER of Commissioner Donald J. Polmann, as Prehearing Officer, this 24th day
of May, 2018.



DONALD J. POLMANN, Ph.D., P.E.
Commissioner and Prehearing Officer
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399
(850) 413-6770
www.floridapsc.com

Copies furnished: A copy of this document is
provided to the parties of record at the time of
issuance and, if applicable, interested persons.

AEH

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.