

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Consideration of the tax impacts  
associated with Tax Cuts and Jobs Act of 2017  
for Peoples Gas System.

DOCKET NO. 20180044-GU  
ORDER NO. PSC-2018-0391-PCO-GU  
ISSUED: August 3, 2018

ORDER GRANTING INTERVENTION TO  
THE FLORIDA INDUSTRIAL POWER USERS GROUP

The Florida Public Service Commission (Commission) opened Docket No. 20180044-GU on February 21, 2018, to consider the tax impacts affecting Peoples Gas System (Peoples Gas) as a result of the passage of the Tax Cuts and Jobs Act of 2017. The Order Establishing Procedure (OEP), Order No. PSC-2018-0212-PCO-GU,<sup>1</sup> was issued on April 25, 2018, in which controlling dates were set for filing testimony, exhibits, and discovery. The hearing for this docket is scheduled to commence on August 20, 2018.

Petition for Intervention

By petition dated August 1, 2018, the Florida Industrial Power Users Group (FIPUG) requested permission to intervene in this proceeding. FIPUG states that it is an ad hoc association consisting of industrial users of electricity and natural gas in Florida, some of whom receive natural gas from Peoples. FIPUG asserts that the cost of natural gas constitutes a significant portion of its members' overall costs of production and that its members require adequate, reasonably-priced electricity in order to compete in their respective markets. FIPUG contends that its interests are of the type this proceeding is designed to protect, since its purpose is to evaluate the impact on Peoples rates due to the changes in the federal income tax code contained in the Tax Cuts and Jobs Act of 2017. Therefore, FIPUG concludes that the purpose of this proceeding coincides with FIPUG's substantial interests: to ensure that its members are charged rates by Peoples that are fair, just, and reasonable. FIPUG states that it is authorized to represent that Peoples does not oppose FIPUG's petition for intervention.

Standards for Intervention and Analysis

Pursuant to Rule 28-106.205, Florida Administrative Code (F.A.C.), persons, other than the original parties to a pending proceeding, who have a substantial interest in the proceeding and who desire to become parties may move for leave to intervene. Petitions for leave to intervene must be filed at least twenty (20) days before the final hearing, must comply with Rule 28-106.204(3), F.A.C., and must include allegations sufficient to demonstrate that the intervenor is entitled to participate in the proceeding as a matter of constitutional or statutory right or pursuant to Commission rule, or that the substantial interests of the intervenor are subject to determination or will be affected through the proceeding. Intervenors take the case as they find it.

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<sup>1</sup> This order was subsequently amended by Order No. PSC-2018-0260-PCO-GU first order revising order establishing procedure, issued May 24, 2018.

To have standing, the intervenor must meet the three-prong standing test set forth in Florida Home Builders v. Dept. of Labor and Employment Security, 412 So. 2d 351 (Fla. 1982), and Farmworker Rights Organization, Inc. v. Dept. of Health and Rehabilitative Services, 417 So. 2d 753 (Fla. 1st DCA 1982), which is based on the basic standing principles established in Agrico Chemical Company v. Department of Environmental Regulation, 406 So. 2d 478 (Fla. 2d DCA 1981).<sup>2</sup> Associational standing may be found where: (1) the association demonstrates that a substantial number of an association's members may be substantially affected by the Commission's decision in a docket; (2) the subject matter of the proceeding is within the association's general scope of interest and activity; and (3) the relief requested is of a type appropriate for the association to receive on behalf of its members.

Rule 28-106.205, F.A.C., provides that except for good cause shown, motions for leave to intervene must be filed within 20 days before the final hearing unless otherwise provided by law. A motion for intervention should have been filed no later than July 31, 2018; however, FIPUG filed its petition on August 1, 2018. FIPUG alleges "[i]n recent discussions with the Office of Public Counsel and Peoples Gas, FIPUG became aware of certain matters that warranted its intervention in this docket at this time, and constitutes good cause [sic]." Although FIPUG's petition for intervention was not timely filed by one (1) day, pursuant to Rule 28-106.205, F.A.C., Peoples does not oppose its intervention in this docket.

It appears that FIPUG has met the associational standing requirements of Florida Home Builders, and based on the representations that Peoples does not object to its intervention, FIPUG's petition is hereby granted.

Therefore, it is hereby

ORDERED by Commissioner Julie I. Brown, as Prehearing Officer, that the Petition to Intervene filed by Florida Industrial Power Users Group is hereby granted as set forth in the body of this Order. It is further

ORDERED that FIPUG takes the case as it finds it. It is further

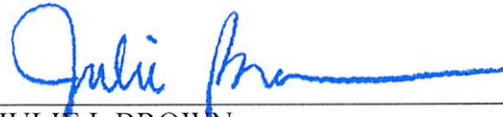
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<sup>2</sup> Under Agrico, the intervenor must show that (1) he will suffer injury in fact which is of sufficient immediacy to entitle him to a Section 120.57, F.S., hearing, and (2) the substantial injury is of a type or nature which the proceeding is designed to protect. The first aspect of the test deals with the degree of injury. The second deals with the nature of the injury. 406 So. 2d 478 at 482. The "injury in fact" must be both real and immediate and not speculative or conjectural. International Jai-Alai Players Assn. v. Florida Pari-Mutuel Commission, 561 So. 2d 1224, 1225-26 (Fla. 3d DCA 1990). See also: Village Park Mobile Home Assn., Inc. v. State Dept. of Business Regulation, 506 So. 2d 426, 434 (Fla. 1st DCA 1987), rev. den., 513 So. 2d 1063 (Fla. 1987) (speculation on the possible occurrence of injurious events is too remote).

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:

Jon C. Moyle, Jr.  
Karen A. Putnal  
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[kputnal@moylelaw.com](mailto:kputnal@moylelaw.com)

By ORDER of Commissioner Julie I. Brown, as Prehearing Officer, this 3rd day  
of August, 2018.



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JULIE I. BROWN  
Commissioner and Prehearing Officer  
Florida Public Service Commission  
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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.

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.