

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for rate increase by Peoples Gas System.

DOCKET NO. 20200051-GU

In re: Petition for approval of 2020 depreciation study by Peoples Gas System.

DOCKET NO. 20200166-GU
ORDER NO. PSC-2020-2020-0227-PCO-GU
ISSUED: July 2, 2020

ORDER GRANTING INTERVENTION TO
THE FLORIDA INDUSTRIAL POWER USERS GROUP

On February 7, 2020, pursuant to Rule 25-7.140, Florida Administrative Code (F.A.C.), Peoples Gas System (Peoples) filed a Test Year Notification with the Commission in Docket No. 20200051-GU. Peoples operates as a natural gas utility and serves over 400,000 customers. By letter dated April 6, 2020, Peoples requested a 60-day extension to its original filing date for its petition, minimum filing requirements (MFRs), and testimony. This request was approved on April 9, 2020,¹ and Peoples' new filing date was set as June 8, 2020. Subsequently, Peoples filed its Petition for Rate Increase (Rate Case Petition), MFRs, and testimony on June 8, 2020.

On June 8, 2020, in Docket No. 2020166-GU, Peoples also filed a Petition for Approval of its 2020 Depreciation Study (Depreciation Study Petition), pursuant to Rule 25-7.045, F.A.C. Peoples is requesting that the proposed depreciation rates in its Depreciation Study Petition be approved for implementation, effective January 1, 2020.

The Order Establishing Procedure (OEP), Order No. PSC-2020-0198-PCO-GU, issued June 22, 2020, in Docket Nos. 20200051-GU and 20200166-GU, consolidated those two dockets for the purpose of hearing. The Order designated Docket No. 20200051-GU as the lead docket and provided that all future filings for Docket No. 20200166-GU shall be filed in Docket No. 20200051-GU. These consolidated dockets are currently scheduled for hearing on October 27-29, 2020.

Petition for Intervention

By petition dated June 4, 2020, the Florida Industrial Power Users Group (FIPUG) requested permission to intervene in Docket No. 20200051-GU. FIPUG states that it is an ad hoc association consisting of industrial users of electricity, and in many cases, natural gas, in Florida. FIPUG asserts that the cost of natural gas, to those FIPUG members using it, is material and that cost contributes to FIPUG members' overall costs of production and/or business operations. Further, FIPUG also asserts that its members require adequate, reasonably priced natural gas to compete effectively in their respective markets. FIPUG contends that its interests are of the type this proceeding is designed to protect, since this proceeding is for the Commission

¹ Document No. 01873-2020.

to consider, among other things, Peoples' proposed base rate increases to its customers, including FIPUG members. Therefore, FIPUG concludes that the purpose of this proceeding coincides with FIPUG's substantial interests. FIPUG represents that it has contacted and represents that Peoples does not oppose FIPUG's petition for intervention. Further, the time for filing objections to FIPUG's petition for intervention has expired with no objections having been filed.

On June 25, 2020, counsel for FIPUG also sent an email to Commission staff regarding the dockets consolidated in this matter per the OEP. The email provides that, in addition to Docket 20200051-GU (where FIPUG has already petitioned to intervene), FIPUG also requests to intervene in Docket 20200166-GU.²

Standards for Intervention

Pursuant to Rule 28-106.205, 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. Motions 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.

To have standing, the intervenor must meet the three-prong standing test set forth in Florida Home Builders Association v. Department of Labor and Employment Security, 412 So. 2d 351, 353-54 (Fla. 1982), and Farmworker Rights Organization, Inc. v. Department of Health and Rehabilitative Services, 417 So. 2d 753, 754 (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, 481-82 (Fla. 2d DCA 1981).³ 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. Fla. Home Builders, 412 So. 2d at 353-54; Farmworker Rights Org., 417 So. 2d at 754.

² Document No. 03434-2020.

³ 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).

Decision

Based on the above representations, it appears that FIPUG has met the associational standing requirements of Florida Home Builders as stated above. FIPUG asserts that many of its members are ratepayers of Peoples, and that a substantial number of its members would be substantially affected by the Commission's decision in this case. Further, ensuring that the natural gas rates charged to its members are fair, just, and reasonable falls within the purview of FIPUG's general scope of interest and is the type of relief appropriate for FIPUG to receive on behalf of its members.

Based on the above representations, it is

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, which includes Docket Nos. 20200051-GU and 20200166-GU, as it finds it. It is further

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

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By ORDER of Commissioner Julie I. Brown, as Prehearing Officer, this 2nd day of July, 2020.



JULIE I. BROWN
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.

KMS

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.