

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Purchased gas adjustment (PGA) true-up.

DOCKET NO. 20220003-GU

ORDER NO. PSC-2022-0383A-PHO-GU

ISSUED: November 9, 2022

AMENDED PREHEARING ORDER

Pursuant to Notice and in accordance with Rule 28-106.209, Florida Administrative Code (F.A.C.), a Prehearing Conference was held on November 2, 2022, in Tallahassee, Florida, before Commissioner Michael La Rosa, as Prehearing Officer.

APPEARANCES:

BETH KEATING, ESQUIRE, Gunster, Yoakley & Stewart, P.A., 215 South Monroe St., Suite 601, Tallahassee, Florida 32301-1804215 South Monroe St., Suite 601, Tallahassee, Florida 32301-1804  
On behalf of Florida City Gas (FCG) and Florida Public Utilities Company (FPUC).

CHRISTOPHER T. WRIGHT, ESQUIRE, 700 Universe Boulevard, Juno Beach, Florida 33408-2863  
On behalf of FLORIDA CITY GAS (FCG).

J. WAHLEN, ESQUIRE, M. MEANS, ESQUIRE, and V. PONDER, ESQUIRE, Ausley Law Firm, Post Office Box 391, Tallahassee, Florida 32302-1517  
On behalf of Peoples Gas System (PGS).

ANDY SHOAF and DEBBIE STITT, St. Joe Gas Company, Inc., Post Office Box 549, Port St. Joe, Florida 32457-0549  
On behalf of St. Joe Gas Company, Inc. (SJNG).

RICHARD GENTRY, ESQUIRE, CHARLES J. REHWINKEL, ESQUIRE, and PATRICIA A. CHRISTENSEN, ESQUIRE, Office of Public Counsel, c/o The Florida Legislature, 111 W. Madison Street, Room 812, Tallahassee, Florida 32399-1400  
On behalf of Office of Public Counsel (OPC).

RYAN SANDY, ESQUIRE, Florida Public Service Commission, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850  
On behalf of the Florida Public Service Commission (Staff).

MARY ANNE HELTON, ESQUIRE, Deputy General Counsel, Florida Public Service Commission, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850

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Florida Public Service Commission General Counsel.

## **I. CASE BACKGROUND**

The Purchased Gas Adjustment Cost Recovery Clause provides for recovery of prudently incurred costs of purchased gas and upstream pipeline capacity. As part of the Commission's continuing purchased gas adjustment true-up proceedings, an administrative hearing in this docket is set for November 17-18, 2022.

## **II. CONDUCT OF PROCEEDINGS**

Pursuant to Rule 28-106.211, F.A.C., this Prehearing Order is issued to prevent delay and to promote the just, speedy, and inexpensive determination of all aspects of this case.

## **III. JURISDICTION**

This Commission is vested with jurisdiction over the subject matter by the provisions of Chapters 120 and 366, Florida Statutes (F.S.), including Sections 366.04, 366.05, and 366.06, F.S. This hearing will be governed by said Chapters and Chapters 25-7, 25-22, and 28-106, F.A.C., as well as any other applicable provisions of law.

## **IV. PROCEDURE FOR HANDLING CONFIDENTIAL INFORMATION**

Information for which proprietary confidential business information status is requested pursuant to Section 366.093, F.S., and Rule 25-22.006, F.A.C., shall be treated by the Commission as confidential. The information shall be exempt from Subsection 119.07(1), F.S., pending a formal ruling on such request by the Commission or pending return of the information to the person providing the information. If no determination of confidentiality has been made and the information has not been made a part of the evidentiary record in this proceeding, it shall be returned to the person providing the information. If a determination of confidentiality has been made and the information was not entered into the record of this proceeding, it shall be returned to the person providing the information within the time period set forth in Section 366.093, F.S. The Commission may determine that continued possession of the information is necessary for the Commission to conduct its business.

It is the policy of this Commission that all Commission hearings be open to the public at all times. The Commission also recognizes its obligation pursuant to Section 366.093, F.S., to protect proprietary confidential business information from disclosure outside the proceeding. Therefore, any party wishing to use any proprietary confidential business information, as that term is defined in Section 366.093, F.S., at the hearing shall adhere to the following:

- (1) When confidential information is used in the hearing that has not been filed as prefiled testimony or prefiled exhibits, parties must have copies for the Commissioners, necessary staff, and the court reporter, in red envelopes clearly marked with the nature of the contents and with the confidential information highlighted. Any party wishing to examine the confidential material that is not subject to an order granting confidentiality shall be provided a copy in the same fashion as provided to the Commissioners, subject to execution of any appropriate protective agreement with the owner of the material.
- (2) Counsel and witnesses are cautioned to avoid verbalizing confidential information in such a way that would compromise confidentiality. Therefore, confidential information should be presented by electronic exhibit.

At the conclusion of that portion of the hearing that involves confidential information, all copies of confidential exhibits shall be returned to the proffering party. If a confidential exhibit has been admitted into evidence, the copy provided to the court reporter shall be retained in the Office of Commission Clerk's confidential files. If such material is admitted into the evidentiary record at hearing and is not otherwise subject to a request for confidential classification filed with the Commission, the source of the information must file a request for confidential classification of the information within 21 days of the conclusion of the hearing, as set forth in Rule 25-22.006(8)(b), F.A.C., if continued confidentiality of the information is to be maintained.

#### **V. PREFILED TESTIMONY AND EXHIBITS; WITNESSES**

Testimony of all witnesses to be sponsored by the parties has been prefiled and will be inserted into the record as though read after the witness has taken the stand and affirmed the correctness of the testimony and associated exhibits. All testimony remains subject to timely and appropriate objections. Upon insertion of a witness' testimony, exhibits appended thereto may be marked for identification. Each witness will have the opportunity to orally summarize his or her testimony at the time he or she takes the stand. Summaries of testimony shall be limited to three minutes.

Witnesses are reminded that, on cross-examination, responses to questions calling for a simple yes or no answer shall be so answered first, after which the witness may explain his or her answer. After all parties and Staff have had the opportunity to cross-examine the witness, the exhibit may be moved into the record. All other exhibits may be similarly identified and entered into the record at the appropriate time during the hearing.

The Commission frequently administers the testimonial oath to more than one witness at a time. Therefore, when a witness takes the stand to testify, the attorney calling the witness is directed to ask the witness to affirm whether he or she has been sworn.

The parties shall avoid duplicative or repetitious cross-examination. Further, friendly cross-examination will not be allowed. Cross-examination shall be limited to witnesses whose testimony is adverse to the party desiring to cross-examine. Any party conducting what appears to be a friendly cross-examination of a witness should be prepared to indicate why that witness's direct testimony is adverse to its interests.

## **VI. ORDER OF WITNESSES**

<u>Witness</u>	<u>Proffered By</u>	<u>Issues #</u>
<u>Direct</u>		
Miguel Bustos*	FCG	1-6
Robert C. Waruszewski*	FPUC	1-7
Jeffrey B. Bates*	FPUC	3, and 4
Karen L. Bramley*	PGS	1-6
Andy Shoaf*	SJNG	All

*\* Indicates witnesses that have been excused with testimony and exhibits to be included in the record*

## **VII. BASIC POSITIONS**

**FCG:** FCG has appropriately calculated its true-up amounts and PGA Factor as shown in the Company's positions on Issue Nos. 1 through 6 below, noting, however, that an error was discovered in the amount of 2023 projected costs that were used to calculate the PGA cap in Issue No. 4, which included amounts associated with the initial fill of its LNG facility that should have been capitalized to rate base. FCG acknowledges that it will make all necessary adjustments to correct the error in its "Actual/Estimated" filing in August 2023.

Otherwise, the maximum levelized PGA Factor based on the Company's expected winter cost of gas is 1.71261 dollars per therm after the regulatory assessment fees. FCG submits that this is the appropriate maximum levelized PGA Factor for application to Sales Customers' bills beginning the first billing

cycle in January 2023 through the last billing cycle in December 2023 and continuing until modified by subsequent order of the Commission.

**FPUC:** FPUC has appropriately calculated its true-up amounts and purchased gas adjustment factor as shown in the Company's positions on Issues 1-6 and asks that the Commission approve the Company's proposed PGA Factor for 2023.

**PGS:** The Commission should determine that Peoples Gas System has properly calculated its final PGA true-up amount of \$4,316,618 under-recovery for the period January 2021 through December 2021; its actual/estimated PGA true-up amount of \$4,316,910 over-recovery for the period January 2022 through December 2022; and its levelized PGA (cap) factor of \$1.49670 per therm for the period January 2023 through December 2023.

**SJNG:** The appropriate over (under) recovery amounts and purchased gas adjustment factors are shown in the company's positions on Issues 1 - 5.

**OPC:** The utilities bear the burden of proof to justify the recovery of costs they request in this docket. The utilities must carry this burden regardless of whether or not the Interveners provide evidence to the contrary. Further, the utilities bear the burden of proof to support their proposal(s) seeking the Commission's adoption of policy statements (whether new or changed) or other affirmative relief sought. Even if the Commission has previously approved a program, recovery of a cost, factor, or adjustment as meeting the Commission's *own* requirements, the utilities still bear the burden of demonstrating that the costs submitted for final recovery meet any statutory test(s) and are reasonable in amount and prudently incurred. Further, recovery of even prudently incurred costs is constrained by the Commission's obligation to set fair, just, and reasonable rates. Further, pursuant to Section 366.01, Florida Statutes, the provisions of Chapter 366 must be liberally construed to protect the public welfare.

**STAFF:** Staff's positions are preliminary and based on materials filed by the parties and on discovery. The preliminary positions are offered to assist the parties in preparing for the hearing. Staff's final positions will be based upon all the evidence in the record and may differ from the preliminary positions.

## **VIII. ISSUES AND POSITIONS**

Type 2 stipulations of Issues 1-7 are set forth at Section X of this Order.

**IX. EXHIBIT LIST**

<u>Witness</u>	<u>Proffered By</u>		<u>Description</u>
			<u>Direct</u>
Miguel Bustos	FCG	MB-1	Calculation of FCG's final PGA true-up amount related to the twelve-month period ended December 31, 2021
Miguel Bustos	FCG	MB-2	Commission prescribed forms supporting calculation of FCG's Actual/Estimated True-Up amount for the current period January 2022 through December 2022 and FCG's proposed 2023 maximum levelized PGA Factor
Robert C. Waruszewski	FPUC	RCW-1	Final Fuel Over/Under Recovery (Schedule A-7)
Robert C. Waruszewski	FPUC	RCW-2	Schedules E-1, E-1/R, E-2, E-3, E-4, E-5
Karen L. Bramley	PGS	KLB-1	Calculation of final true-up for January 2021-December 2021 (Schedule A-7)
Karen L. Bramley	PGS	KLB-2	Calculation of estimated true-up for January 2022-December 2022; total true-up for January 2022-December 2022; calculation of PGA factor for January 2023-December 2023 (Schedules E-1 through E-5)
Andy Shoaf	SJNG	CAS-1	Final Over/Under
Andy Shoaf	SJNG	CAS-2	PGA Summary of estimates for the projected period; Reprojected PGA for Current Period (7 mths actual, 5 mths estimated)

<u>Witness</u>	<u>Proffered By</u>		<u>Description</u>
Andy Shoaf	SJNG	CAS-3	Calculation of true-up amount current period (7 months actual 5 months estimated)
Andy Shoaf	SJNG	CAS-4	Transportation (CAS-4) purchases system supply and end use for the projected period.
Andy Shoaf	SJNG	CAS-5	Calculation of true-up amount for the projected period based on the prior period and Current period (7 mths actual, 5 mths estimated)
Andy Shoaf	SJNG	CAS-6	Therm Sales and Customer Data (For the projected Period)

Parties and Staff reserve the right to identify additional exhibits for the purpose of cross-examination.

## **X. PROPOSED STIPULATIONS**

As referenced in Section VIII, there are Type 2 proposed stipulations on all issues in this docket. A Type 2 stipulation occurs on an issue when the utility and the staff, or the utility and at least one party adversarial to the utility, agree on the resolution of the issue and the remaining parties (including staff if they do not join in the agreement) do not object to the Commission relying on the agreed language to resolve that issue in a final order. FCG, FPUC, PGS, and SJNG have reached proposed stipulations on all issues, and OPC states the following:

The OPC takes no position on the issues nor does it have the burden of proof related to them. As such, the OPC represents that it will not contest or oppose the Commission taking action approving the proposed stipulations between the Company and another party or Staff as a final resolution of the issues. No person is authorized to state that the OPC is a participant in, or party to, any of the stipulations on these issues, either in this docket, in an order of the Commission or in a representation to a Court.

FCG, FPUC, PGS, SJNG, and Commission staff support the proposed stipulations.

**ISSUE 1:**           **What are the final purchased gas adjustment true-up amounts for the period January 2021 through December 2021?**

**STIPULATION:**    The appropriate final purchased gas adjustment true-up amounts for the period January 2021 through December 2021 are as follows:

Florida City Gas	\$2,055,353	Under-recovery
FPUC & FPUC-Fort Meade	\$4,347,350	Under-recovery
Peoples Gas System	\$4,316,618	Under-recovery
St. Joe Natural Gas Company	\$152,932	Under-recovery

**ISSUE 2:**           **What are the appropriate purchased gas adjustment actual/estimated true-up amounts for the period January 2022 through December 2022?**

**STIPULATION:**    The appropriate purchased gas adjustment actual/estimated true-up amounts for the period January 2022 through December 2022 are as follows:

Florida City Gas	\$13,464,473	Under-recovery
FPUC & FPUC-Fort Meade	\$3,982,145	Over-recovery
Peoples Gas System	\$4,316,910	Over-recovery
St. Joe Natural Gas Company	\$23,336	Under-recovery

**ISSUE 3:**           **What are the total purchased gas adjustment true-up amounts to be collected during the period January 2023 through December 2023?**

**STIPULATION:**    The appropriate total purchased gas adjustment true-up amounts to be collected during the period January 2023 through December 2023 are as follows:

Florida City Gas	\$15,519,826	Under-recovery
FPUC & FPUC-Fort Meade	\$365,205	Under-recovery
Peoples Gas System	\$292	Over-recovery
St. Joe Natural Gas Company	\$173,359	Under-recovery

**ISSUE 4:**           **What are the levelized purchased gas cost recovery (cap) factors for the period January 2023 through December 2023?**

**STIPULATION:**    The appropriate levelized purchased gas cost recovery (cap) factors for the period January 2023 through December 2023 are as follows:



Florida City Gas	1.71261 dollars/therm
FPUC & FPUC-Fort Meade	1.4190701 dollars/therm
Peoples Gas System	1.49670 dollars/therm
St. Joe Natural Gas Company	1.495 dollars/therm

**ISSUE 5:**           **What should be the effective date of the purchased gas adjustment charge for billing purposes be?**

**STIPULATION:**    The purchased gas adjustment cost recovery (cap) factors shall be effective for all meter readings on or after January 1, 2023, beginning with the first or applicable billing cycle for the period January 2023 through December 2023. Billing cycles may start before January 1, 2023 and the last cycle may be read after December 31, 2023, so that each customer is billed for twelve months regardless of when the adjustment factor became effective. These charges shall continue in effect until modified by subsequent order of this Commission.

**ISSUE 6:**           **Should the Commission approve revised tariffs reflecting the new purchased gas adjustment charges determined to be appropriate in this proceeding?**

**STIPULATION:**    Yes. The Commission should approve revised tariffs reflecting the new purchased gas adjustment cost recovery (cap) factors determined to be appropriate in this proceeding. The Commission should direct staff to verify that the revised tariffs are consistent with the Commission's decision.

**ISSUE 7:**           **Should this docket be closed?**

**STIPULATION:**    No. While a separate docket number is assigned each year, this is a continuing docket and should remain open for administrative convenience.

**XI.   PENDING MOTIONS**

There are no pending motions at this time.

**XII.   PENDING CONFIDENTIALITY MATTERS**

There are no pending confidentiality matters at this time.

### **XIII. POST-HEARING PROCEDURES**

If no bench decision is made, each party shall file a post-hearing statement of issues and positions. A summary of each position, set off with asterisks, shall be included in that statement. If a party's position has not changed since the issuance of this Prehearing Order, the post-hearing statement may simply restate the prehearing position; however, if the prehearing position is longer than 50 words, it must be reduced to no more than 50 words. If a party fails to file a post-hearing statement, that party shall have waived all issues and may be dismissed from the proceeding.

Pursuant to Rule 28-106.215, F.A.C., a party's proposed findings of fact and conclusions of law, if any, statement of issues and positions, and brief, shall together total no more than 40 pages and shall be filed at the same time.

### **XIV. RULINGS**

Opening statements, if any, shall not exceed three minutes per party.

It is therefore,

ORDERED by Commissioner Mike La Rosa, as Prehearing Officer, that this Prehearing Order shall govern the conduct of these proceedings as set forth above unless modified by the Commission.

By ORDER of Commissioner Mike La Rosa, as Prehearing Officer, this 9th day of November, 2022.



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Mike La Rosa  
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.

RPS

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Subsection 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.