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BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

In the Matter of:

DOCKET NO. 20220069-GU

Petition for rate increase
by Florida City Gas.

_____ /

PROCEEDINGS: COMMISSION CONFERENCE AGENDA
ITEM NO. 5

COMMISSIONERS
PARTICIPATING: CHAIRMAN ANDREW GILES FAY
COMMISSIONER MIKE LA ROSA
COMMISSIONER GABRIELLA PASSIDOMO

DATE: Tuesday, September 12, 2023

PLACE: Betty Easley Conference Center
Room 148
4075 Esplanade Way
Tallahassee, Florida

REPORTED BY: DEBRA R. KRICK
Court Reporter and
Notary Public in and for
the State of Florida at Large

PREMIER REPORTING
112 W. 5TH AVENUE
TALLAHASSEE, FLORIDA
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1 P R O C E E D I N G S

2 CHAIRMAN FAY: Next, Commissioners, we will be
3 moving to Item No. 5. We will give everybody just
4 a quick minute to set up as we do have some parties
5 engaged in this item and it's pulled for further
6 discussion panel.

7 All right. Mr. Sparks, when you are ready,
8 you can present a summary of Item No. 5.

9 MR. SPARKS: Thank you. Good morning, Mr.
10 Chairman and Commissioners. Tim Sparks
11 representing -- presenting this item on behalf of
12 the Office of the General Counsel.

13 Item 5 addresses OPC's motion for
14 reconsideration regarding the final order issued by
15 the Commission on Florida City Gas' rate petition.
16 OPC has also requested oral argument on the motion.

17 As to the request for oral argument, if the
18 Commission wishes to exercise its discretion to
19 hear the oral argument, staff recommends five
20 minutes per party as sufficient.

21 As to the motion for reconsideration, staff
22 recommends that the motion be denied, but that the
23 final order be amended to clarify the Commission's
24 authority as set forth in staff's recommendation.

25 Staff is available to answer any questions.

1 CHAIRMAN FAY: Okay. Great. Thank you, Mr.
2 Sparks.

3 All right. Commissioners, I know the original
4 request in the motion for reconsideration I believe
5 had 10 minutes request for oral argument. I know
6 some of this might seem repetitive, but I do think
7 of it's probably appropriate to go ahead and hear
8 oral argument from OPC and the utility. Any
9 objections to that? Nope. Seeing none.

10 What we will do then is we will start with --
11 we will grant the motion for oral argument. We
12 will start with the Office of Public Counsel to
13 present. Ms. Wessling, are you going to be the one
14 presenting this morning? Okay. We will set five
15 minutes aside for you, and then for the utility to
16 address their position, Mr. Wright.

17 So with that, Ms. Wessling, you are recognized
18 to present your oral argument.

19 MS. WESSLING: Thank you, Mr. Chair and the
20 other Commissioners for granting us the ability to
21 present oral argument. I will try to avoid being,
22 you know, repetitious, and certainly not here to
23 relitigate issues, but we will stand on our
24 argument with regard to the violation of 366.06. I
25 would like to focus my argument on the second issue

1 that we raised in our motion, specifically the lack
2 of the rationale for approving the RSAM and the
3 RSAM adjusted depreciation rates.

4 The evidence put forward by Florida City Gas
5 to satisfy their burden of proof conditioned rate
6 stability upon approval of the entire plan. That
7 was a thematic choice reiterated throughout FCG's
8 presentation of its case, and OPC did cite to three
9 different instances in the record where FCG put
10 forth that conditional promise of rate stability.

11 I know the recommendation seemed, it to
12 indicate there weren't any cites of that, but there
13 are at least three different cites within the
14 motion.

15 Ultimately, when the Commission took up this
16 matter for a vote back in March, the Commission,
17 throughout the transcript, there were several
18 references to the fact that the RSAM was being
19 approved, and felt like it was a good idea because
20 of the rate stability that it would provide. And
21 at the time that those votes were taken, the other
22 issues of the proposed four-year rate plan were
23 still on the table. However, subsequent to the
24 vote on the RSAM and the RSAM depreciation
25 parameters, other portions of the four-year rate

1 plan were disallowed, or not approved.

2 And given that FCG has the burden of proof in
3 this case, and they chose to put forward this
4 proposed four-year rate plan all-or-nothing
5 package, and that is no longer the case, then
6 therefore, the rate stability has gone away.

7 That's ultimately our position, and I am happy
8 to answer any questions you may have.

9 CHAIRMAN FAY: Okay. Great. Thank you, Ms.
10 Wessling.

11 Mr. Wright, you are recognized.

12 MR. WRIGHT: Good morning, Commissioners.
13 Christopher Wright on behalf of Florida City Gas.

14 As explained in FCG's written response, and
15 based on Commission and core precedent, OPC's
16 motion and arguments fail to meet the standard
17 required for reconsideration and should be denied.

18 I am not going to reargue the points here
19 today. I am not going to waste our time. For the
20 reasons stated in our written response, FCG fully
21 supports staff's recommendation, including the
22 recommendation to clarify the order, to make it
23 clear that the Commission has authority to approve
24 RSAM and the RSAM adjusted depreciation parameters
25 under Section 366.06.

1 Thank you, and I am available for questions.

2 CHAIRMAN FAY: Great. Thank you, Mr. Wright.

3 All right. Commissioners, with that, that
4 will conclude oral argument on this item. We now
5 have the item itself, the motion for
6 reconsideration pending.

7 I will take up any questions for staff or the
8 parties, or any debate at this time.

9 Commissioner Passidomo, you are recognized.

10 COMMISSIONER PASSIDOMO: Thank you.

11 All right. I just want to thank both of you
12 for being here and engaging in oral argument. I
13 appreciate hearing your perspective, Ms. Wessling.
14 I didn't know if staff had anything to respond to
15 that before I kind of want to, you know, just get
16 this rolling.

17 CHAIRMAN FAY: Sure.

18 Mr. Sparks, anything to add?

19 MR. SPARKS: No, nothing at this time.

20 COMMISSIONER PASSIDOMO: All right. Thank
21 you.

22 So regarding the motion for reconsideration,
23 we've kind of -- we've seen these in the past. The
24 standard really is mistake of fact or law. And I
25 have -- you know, I read OPC's pleadings and the

1 utility's response, and I -- I don't see that there
2 was any demonstration of a mistake of fact or law
3 when we made our initial decision.

4 Regarding your first argument that's in your
5 pleading, I kind of wanted to also address that. I
6 think that that helps when we are talking about
7 staff's recommendation here about clarifying the
8 final order. It was sort of insinuated that there
9 was an issue of statutory authority, but I think
10 that it's important for us to clarify the final
11 order, and so I would propose that in addition to
12 accepting staff's recommendation here, that we go
13 on as well to clarify our final order to -- that we
14 have the authority to approve the RSAM adjusted
15 depreciation parameters under Section 366.06.

16 So that's my main -- that's my main focus
17 here. Again, as regarding your first -- the first
18 point, I think that, again, we haven't demonstrated
19 -- I don't believe that the Commission, that there
20 was a mistake of fact or law, so -- and that's why
21 the second, I think it's important for us to
22 clarify that authority.

23 CHAIRMAN FAY: Great. Thank you, Commissioner
24 Passidomo.

25 Commissioner La Rosa, you are recognized.

1 COMMISSIONER LA ROSA: Thank you, Chairman.

2 And just, you know, if I could just say ditto and
3 be simple, I would, and I wholeheartedly agree with
4 Commissioner Passidomo.

5 I think what's in front of us today is
6 obviously, you know, kind of narrowly focused
7 into -- not necessarily to go back and rehash the
8 entire case, but I do agree we should deny and also
9 clarify at the same time. So I am in agreement
10 with what staff has recommended. I think it's
11 necessary. We had great discussion kind of
12 building up to this, and would obviously support
13 what they have put before us today.

14 CHAIRMAN FAY: Okay. Great.

15 I guess with that, then I will tee up a
16 motion. I just, real quick for clarification, Ms.
17 Wessling, did you -- I understand your initial
18 motion. Did you have a position on the clarity in
19 the order?

20 MS. WESSLING: Our position is that that
21 clarification would not remedy the problem with the
22 order itself, but I will leave it up to, obviously,
23 the Commission to decide whether or not they feel
24 that he is appropriate to amend their order.

25 CHAIRMAN FAY: Okay. Great.

1 Then with that, Commissioner La Rosa or
2 Commissioner Passidomo, I would open the floor to a
3 motion on this item.

4 COMMISSIONER PASSIDOMO: I will go ahead if
5 that's okay.

6 I move that we approve staff recommendation to
7 deny the motion for reconsideration.

8 COMMISSIONER LA ROSA: Second.

9 CHAIRMAN FAY: And second with the clarity in
10 the order?

11 COMMISSIONER PASSIDOMO: Yes.

12 CHAIRMAN FAY: All right. With that, show
13 Item No. 5 passed unanimously for the motion to
14 deny the recommendation and the clarity to the
15 order.

16 With that, Commissioners, that will conclude
17 our Agenda and Item No. 5. We will next adjourn
18 for Internal Affairs. I have 9:48 now. We will
19 start that at 9:55.

20 Thanks so much.

21 (Agenda item concluded.)

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CERTIFICATE OF REPORTER


STATE OF FLORIDA)
COUNTY OF LEON)

I, DEBRA KRICK, Court Reporter, do hereby certify that the foregoing proceeding was heard at the time and place herein stated.

IT IS FURTHER CERTIFIED that I stenographically reported the said proceedings; that the same has been transcribed under my direct supervision; and that this transcript constitutes a true transcription of my notes of said proceedings.

I FURTHER CERTIFY that I am not a relative, employee, attorney or counsel of any of the parties, nor am I a relative or employee of any of the parties' attorney or counsel connected with the action, nor am I financially interested in the action.

DATED this 25th day of September, 2023.


DEBRA R. KRICK
NOTARY PUBLIC
COMMISSION #HH31926
EXPIRES AUGUST 13, 2024