

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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

DOCKET NO. 20230003-GU
ORDER NO. PSC-2023-0326-PHO-GU
ISSUED: October 26, 2023

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 October 17, 2023, in Tallahassee, Florida, before Commissioner Mike La Rosa, as Prehearing Officer.

APPEARANCES:

BETH KEATING, ESQUIRE, Gunster, Yoakley & Stewart, P.A., 215 South Monroe St., Suite 601, Tallahassee, Florida 32301-1804
215 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. JEFFRY WAHLEN, MALCOLM M. MEANS, and VIRGINIA PONDER, ESQUIRES, Ausley Law Firm, Post Office Box 391, Tallahassee, Florida 32302-1517
On behalf of Peoples Gas System, Inc. (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).

WALT TRIERWEILER, CHARLES J. REHWINKEL, PATRICIA A. CHRISTENSEN, and MARY WESSLING, ESQUIRES, 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).

AUSTIN WATROUS, 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 1-3, 2023.

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 Section 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 written exhibit when reasonably possible.

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
+Matthew E. Elliott	PGS	1-6
+Charles A. Shoaf	SJNG	1-7

+ These witnesses have been excused from attending the final hearing.

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. The maximum levelized 2024 PGA Factor based on the Company's expected winter cost of gas is \$0.84816 per therm after the regulatory assessment fees. FCG submits that this is the appropriate maximum levelized 2024 PGA Factor for application to Sales Customers' bills beginning the first billing cycle in January 2024 through the last billing cycle in December 2024 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 2024.

PGS: The Commission should determine that Peoples has properly calculated its final PGA true-up amount of \$2,082,184 under-recovery for the period January 2022 through December 2022; its actual/estimated PGA true-up amount of \$3,249,797 over-recovery for the period January 2023 through December 2023; and its levelized PGA (cap) factor of \$0.96838 per therm for the period January 2024 through December 2024 set forth in the testimony and exhibits of witness Matthew E. Elliott.

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. Moreover, the utilities bear the burden of proof to support that all costs sought to be recovered through this clause are correctly clause recovery costs and not base rate costs. Further, recovery of even prudently incurred costs is constrained by the Commission's obligation to set fair, just, and reasonable rates, based on projects and/or costs that are prudent undertaken, prudent in amount and prudently incurred pursuant to Section 366.01, Florida Statutes. Additionally, 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

ISSUE 1: **What are the final purchase gas adjustment true-up amounts for the period January 2022 through December 2022?**

FCG: The final net true-up amount (including interest, adjustments, and the estimated under-recovery included in the 2023 PGA Factor) for the period January 2022 through December 2022 is an over-recovery of \$8,998,019. *See* FCG Exhibit MB-1, Line 7. (Bustos)

FPUC: The final true-up amount for the period January 2022 through December 2022, including interest, net of estimated true-up for the same period, is an under-recovery of \$3,376,449.

PGS: An under-recovery of \$2,082,184. (Elliott)

SJNG: \$66,181 over-recovery.

OPC: The OPC is not in full agreement that the Companies have demonstrated that the amounts are reasonable or prudent and thus objects to inclusion of the cost for recovery. Further, the utilities bear the burden of proof to support that all costs sought to be recovered through this clause are correctly clause recovery costs and not base rate costs. Nevertheless, for various reasons, including judicial economy, the OPC is willing to facilitate a Type 2 stipulation¹ on this issue.

STAFF: Staff has no position at this time.

ISSUE 2: What are the appropriate purchased gas adjustment actual/estimated true-up amounts for the period January 2023 through December 2023?

FCG: The Actual/Estimated True-Up amount (based on actual data for six months and projected data for six months) for the current period January 2023 through December 2023 is an is an under-recovery of \$10,477,497. *See* FCG Exhibit MB-2, Schedule E-4. (Bustos)

FPUC: FPUC estimates an over-recovery of \$1,880,594 inclusive of interest.

PGS: An over-recovery of \$3,249,797. (Elliott)

SJNG: \$72,173 under-recovery.

OPC: The OPC is not in full agreement that the Companies have demonstrated that the amounts are reasonable or prudent and thus objects to inclusion of the cost for recovery. Further, the utilities bear the burden of proof to support that all costs sought to be recovered through this clause are correctly clause recovery costs and not base rate costs. Nevertheless, for various reasons, including judicial economy, the OPC is willing to facilitate a Type 2 stipulation on this issue.

STAFF: Staff has no position at this time.

¹ A "Type 2 stipulation" occurs on an Issue when the utility and 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 it does not join in the agreement) do not object to the Commission relying upon the agreed language to resolve that issue in a final order.

ISSUE 3: What are the total purchased gas adjustment true-up amounts to be collected during the period January 2024 through December 2024?

FCG: The total net true-up (inclusive of the final true-up for 2022, the Actual/Estimated True-Up for 2023, and interest) to be collected from January 2024 through December 2024 is an under-recovery of \$1,479,478. *See* FCG Exhibit MB-2, Schedule E-4. (Bustos)

FPUC: In total, FPUC under-recovery of \$1,495,855 to be collected during the projected period.

PGS: The amount to be refunded is \$1,167,613. (Elliott)

SJNG: \$5,992 under-recovery.

OPC: The OPC is not in full agreement that the Companies have demonstrated that the amounts are reasonable or prudent and thus objects to inclusion of the cost for recovery. Further, the utilities bear the burden of proof to support that all costs sought to be recovered through this clause are correctly clause recovery costs and not base rate costs. Nevertheless, for various reasons, including judicial economy, the OPC is willing to facilitate a Type 2 stipulation on this issue.

STAFF: Staff has no position at this time.

ISSUE 4: What are the levelized purchased gas adjustment cost recovery (cap) factors for the period January 2024 through December 2024?

FCG: The maximum levelized 2024 purchased gas cost recovery (cap) factors based on the Company's expected winter cost of gas is \$0.84391 per therm before the regulatory assessment fees, and \$0.84816 per therm after the regulatory assessment fees. *See* FCG Exhibit MB-2, Schedule E-1 Winter, lines 42-45. (Bustos)

FPUC: The appropriate PGA factor is 130.92¢ per therm.

PGS: A purchased gas cost recovery (cap) factor of \$0.96838 per therm. (Elliott)

SJNG: 1.047 per therm recovery (cap) factor.

OPC: The OPC is not in full agreement that the Companies have demonstrated that the factors are reasonable or prudent and thus objects to them. Further, the utilities bear the burden of proof to support that all costs sought to be recovered through this clause are correctly clause recovery costs and not base rate costs. Nevertheless, for various reasons, including judicial economy, the OPC is willing to facilitate a Type 2 stipulation on this issue.

STAFF: Staff has no position at this time.

ISSUE 5: What should the effective date of the new purchased gas adjustment cost recovery factors for billing purposes be?

FCG: The new purchased gas adjustment charge should be effective for application to Sales Customers' bills beginning the first billing cycle in January 2024 through the last billing cycle in December 2024 and continuing until modified by subsequent order of the Commission. (Bustos)

FPUC: The factors should be effective for all meter readings on or after January 1, 2024 and should apply for bills rendered for meter readings taken between January 1, 2024 and December 31, 2024.

PGS: The cap factor should be effective beginning with the specified purchased gas cost recovery cycle and thereafter for the period January 2024 through December 2024. Billing cycles may start before January 1, 2024, and the last cycle may be read after December 31, 2024, so that each customer is billed for twelve months regardless of when the adjustment charge became effective. (Elliott)

SJNG: The effective date for the new purchased gas adjustment charge should be January 1, 2024.

OPC: The OPC is not in full agreement that the Companies have demonstrated that the amounts are reasonable or prudent and thus objects to them. Further, the utilities bear the burden of proof to support that all costs sought to be recovered through this clause are correctly clause recovery costs and not base rate costs. Nevertheless, for various reasons, including judicial economy, the OPC is willing to facilitate a Type 2 stipulation on this issue.

STAFF: Staff has no position at this time.

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

FCG: Yes. The Commission should approve revised tariffs reflecting the new purchased gas adjustment charges 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. The Commission should grant Staff authority to administratively approve revised tariffs reflecting the new levelized purchased gas cost recovery factors determined to be appropriate in this proceeding. (Bustos)

FPUC: Yes. The Commission should approve revised tariffs reflecting the new purchased gas adjustment charges 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.

PGS: Yes. The Commission should approve revised tariffs reflecting the new purchased gas adjustment cap factor 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. (Elliott)

SJNG: Yes. The Commission should approve the revised tariff reflecting the new purchased gas adjustment charge determined to be appropriate in the proceeding.

OPC: No position at this time; however, the factors contained in the tariff(s) should be based on costs deemed reasonable and or prudent in a hearing and are correctly clause recovery costs.

STAFF: Staff has no position at this time.

ISSUE 7: Should this docket be closed?

FCG: No. While a separate docket is assigned each year for administrative convenience, this is a continuing docket and should remain open. (Bustos)

FPUC: This is a continuing cost recovery docket and should remain an active and ongoing proceeding. As such, a new docket number should be established annually to reflect the new calendar year.

PGS: Yes. Docket No. 20230003-GU should be closed once the Commission's decisions on all issues in the docket have become final and the Commission has concluded that the docket has otherwise met the requirements for closure.

SJNG: Yes.

OPC: No position at this time.

STAFF: Staff has no position at this time.

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, 2022
Miguel Bustos	FCG	MB-2	Commission prescribed forms supporting calculation of FCG's Actual/Estimated True-Up amount for the current period January 2023 through December 2023 and FCG's proposed 2024 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, and E-5
Matthew E. Elliott	PGS	MEE-1	Calculation of final true-up for January 2022-December 2022 (Schedule A-7)
Matthew E. Elliott	PGS	MEE-2	Calculation of estimated true-up for January 2023-December 2023; total true-up to be collected in 2024; calculation of PGA factor for January 2024-December 2024 (Schedules E-1 through E-5)
Charles A. Shoaf	SJNG	CAS-1	Final Over/Under A-7

<u>Witness</u>	<u>Proffered By</u>		<u>Description</u>
Charles A. Shoaf	SJNG	CAS-2	PGA Summary of estimates for the projected period. E-1 Reprojected PGA for Current Period (7 months actual, 5 months estimated) E-1/R
Charles A. Shoaf	SJNG	CAS-3	Calculation of true-up amount current period (7 months actual 5 months estimated) E-2
Charles A. Shoaf	SJNG	CAS-4	Transportation (CAS-4) purchases system supply and end use for the projected period E-3
Charles A. Shoaf	SJNG	CAS-5	Calculation of true-up amount for the projected period based on the prior period and Current period (7 months actual, 5 months estimated) E-4
Charles A. Shoaf	SJNG	CAS-6	Therm Sales and Customer Data (For the projected Period) E-5

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

X. PROPOSED STIPULATIONS

There are no proposed stipulations at this time.

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 75 words, it must be reduced to no more than 75 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 26th day of October, 2023.



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.

AAW

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.