

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for approval of special contract with Max-Pak Corporation by Tampa Electric Company d/b/a Peoples Gas System.

DOCKET NO. 000502-GU
ORDER NO. PSC-00-1593-TRF-GU
ISSUED: September 5, 2000

The following Commissioners participated in the disposition of this matter:

J. TERRY DEASON, Chairman
E. LEON JACOBS, JR.
LILA A. JABER

ORDER APPROVING REDUCTION TO ELIGIBILITY
THRESHOLD FOR CIS AND CTS TARIFFS

BY THE COMMISSION:

On April 27, 2000, Tampa Electric Company d/b/a Peoples Gas System (Peoples) filed a petition for approval of a special contract with Max-Pak Corporation (Max-Pak). In a June 8, 2000, memorandum, our staff recommended that we deny the proposed special contract between Peoples and Max-Pak. Our staff suggested that it could be unduly discriminatory for Peoples to provide a discounted rate to Max-Pak without offering a discounted rate to its several other customers with similar or higher consumption levels than Max-Pak.

In its recommendation, our staff also suggested that Peoples could achieve its goal of providing a competitive, discounted rate to Max-Pak by instead developing a new tariff or modifying the consumption threshold in its existing Contract Interruptible Service (CIS) tariff or Contract Transportation Service (CTS) tariff to a level at which Max-Pak and similarly situated customers would be eligible. Our staff asserted that this alternative would avoid any unduly discriminatory effects of the proposed special contract and would eliminate the need for numerous special contracts. Our staff noted that Max-Pak, in the proposed special contract, had agreed to abide by the same terms for interruption that exist in Peoples' CIS and CTS tariffs.

DOCUMENT NUMBER-DATE

10939 SEP-58

FPSC-RECORDS/REPORTING

At this Commission's June 20, 2000, Agenda Conference, Peoples disagreed with our staff's assertion that the proposed special contract is discriminatory. However, Peoples agreed that our staff's alternative approach would provide a sound means for Peoples to address competitive fuel situations, like that of Max-Pak, as they arise. Peoples indicated its willingness to address Max-Pak's request for a competitive rate by reducing the consumption threshold in its existing CIS and CTS tariffs from 500,000 therms per year to 100,000 therms per year. Peoples requested that we authorize our staff to administratively approve these tariff modifications. Peoples agreed to withdraw its petition for approval of the special contract with Max-Pak upon approval of the tariff modifications.

At the June 20, 2000, Agenda Conference, we agreed that the suggested modification of Peoples' existing CIS and CTS tariffs, with administrative approval from our staff, would provide a reasonable means for Peoples to address Max-Pak's request for a discounted rate competitive with the price at which it can purchase alternative fuel. We noted that this approach would allow Peoples to address similar threats of loss of load as they arise in the future without the necessity of numerous special contracts. Ultimately, we voted to defer consideration of our staff's recommendation to deny Peoples' petition for approval of the special contract.

Based on the discussion at the June 20, 2000, Agenda Conference, both our staff and Peoples believed that we had approved the suggested modification of Peoples' existing CIS and CTS tariffs and had authorized staff to administratively approve the modified tariff sheets. Further, based on that discussion, both our staff and Peoples believed that our vote to defer this matter was based on the rationale that there was no need to vote on Peoples' petition for approval of the special contract because that petition would be withdrawn upon our staff's administrative approval of the tariff modifications. Peoples has submitted its revised tariff sheets to our staff, and our staff has administratively approved the tariff sheets. Peoples filed a notice of withdrawal of its petition on July 12, 2000, requesting that this docket be closed.

Upon subsequent review of the record of the June 20, 2000, Agenda Conference, we have determined that while the record strongly indicates our approval of the course of action described above, no vote was taken to clearly approve that course of action.

ORDER NO. PSC-00-1593-TRF-GU
DOCKET NO. 000502-GU
PAGE 3

Instead, the record indicates only that we voted to defer consideration of our staff's recommendation to deny Peoples' petition for approval of the special contract. By this Order, we clarify our vote to approve the course of action set forth above, i.e.: (1) to approve the modification of Peoples' CIS and CTS tariffs to reduce the consumption threshold in the tariffs from 500,000 therms per year to 100,000 therms per year; and (2) to authorize staff to administratively approve the modified tariff sheets.

Although Peoples has withdrawn its petition in this docket, the docket should remain open to allow a point of entry in this proceeding for persons whose substantial interests are affected by the tariff modifications. If a protest is filed within 21 days of this Order, the tariffs should remain in effect pending resolution of the protest. If no protest is filed, this docket should be closed upon the issuance of a Consummating Order.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that the request of Tampa Electric Company d/b/a Peoples Gas System to modify the consumption threshold in its existing Contract Interruptible Service (CIS) and Contract Transportation Service (CTS) tariffs from 500,000 therms per year to 100,000 therms per year is granted. It is further

ORDERED that Tampa Electric Company d/b/a Peoples Gas System's modification to the consumption threshold in its existing CIS and CTS tariffs may be administratively approved. It is further

ORDERED that if a protest is filed within 21 days of issuance of this Order, the tariffs shall remain in effect pending resolution of the protest. It is further

ORDERED that if no timely protest is filed, this docket shall be closed upon the issuance of a Consummating Order.

ORDER NO. PSC-00-1593-TRF-GU
DOCKET NO. 000502-GU
PAGE 4

By ORDER of the Florida Public Service Commission this 5th
day of September, 2000.

BLANCA S. BAYÓ, Director
Division of Records and Reporting

By: Kay Flynn
Kay Flynn, Chief
Bureau of Records

(S E A L)

WCK

NOTICE OF FURTHER PROCEEDINGS

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.

The Commission's decision on this tariff is interim in nature and will become final, unless a person whose substantial interests are affected by the proposed action files a petition for a formal proceeding, in the form provided by Rule 28-106.201, Florida Administrative Code. This petition must be received by the Director, Division of Records and Reporting, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on September 26, 2000.

ORDER NO. PSC-00-1593-TRF-GU
DOCKET NO. 000502-GU
PAGE 5

In the absence of such a petition, this Order shall become final and effective upon the issuance of a Consummating Order.

Any objection or protest filed in this docket before the issuance date of this order is considered abandoned unless it satisfies the foregoing conditions and is renewed within the specified protest period.