

BEFORE THE PUBLIC SERVICE COMMISSION

In re: Natural gas conservation cost recovery.

DOCKET NO. 040004-GU
ORDER NO. PSC-04-1093-PHO-GU
ISSUED: November 4, 2004

Pursuant to Notice and in accordance with Rule 28-106.209, Florida Administrative Code, a Prehearing Conference was held on October 25, 2004, in Tallahassee, Florida, before Commissioner Rudolph "Rudy" Bradley, as Prehearing Officer.

APPEARANCES:

WAYNE L SCHIEFELBEIN, ESQUIRE, Rose, Sundstrom & Bentley, LLP,
2548 Blairstone Pines Drive, Tallahassee, Florida 32301
On behalf of Chesapeake Utilities Corporation, Florida Division.

GARY V. PERKO, ESQUIRE, Hopping Green & Sams, Post Office Box 6526,
Tallahassee, Florida 32314
On behalf of NUI City Gas Company of Florida.

NORMAN H. HORTON, JR., ESQUIRE, Messer, Caparello & Self, Post Office
Box 1876, Tallahassee, FL 32302-1876
On behalf of Florida Public Utilities Company.

MARTHA BROWN, ESQUIRE, Florida Public Service Commission, 2540
Shumard Oak Boulevard, Tallahassee, Florida 32399-0850
On behalf of the Florida Public Service Commission.

PREHEARING ORDER

I. CONDUCT OF PROCEEDINGS

Pursuant to Rule 28-106.211, Florida Administrative Code, this Order is issued to prevent delay and to promote the just, speedy, and inexpensive determination of all aspects of this case.

DOCUMENT NUMBER-DATE
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FPSC-COMMISSION CLERK

II. CASE BACKGROUND

As part of the Commission's ongoing fuel cost recovery, energy conservation cost recovery, gas conservation cost recovery, purchased gas adjustment, and environmental cost recovery proceedings, a hearing is set for November 8-10, 2004, in this docket and in Dockets 040001-EI, 040002-EI, 040003-GU, and 040007-EI. The parties in this docket have reached agreement concerning all issues identified for resolution at the hearing. The staff is prepared to present the panel with a recommendation at the hearing for approval of the stipulated positions set forth herein. The Commission may render a bench decision on this matter.

III. JURISDICTION

This Commission is vested with jurisdiction over the subject matter by the provisions of Chapter 366, Florida Statutes. This hearing will be governed by said Chapter and Chapters 25-22, and 28-106, Florida Administrative Code.

IV. PROCEDURE FOR HANDLING CONFIDENTIAL INFORMATION

A. Any information provided pursuant to a discovery request for which proprietary confidential business information status is requested shall be treated by the Commission and the parties as confidential. The information shall be exempt from Section 119.07(1), Florida Statutes, pending a formal ruling on such request by the Commission, or upon the return of the information to the person providing the information. If no determination of confidentiality has been made and the information has not been used in the proceeding, it shall be returned expeditiously to the person providing the information. If a determination of confidentiality has been made and the information was not entered into the record of the proceeding, it shall be returned to the person providing the information within the time periods set forth in Section 366.093, Florida Statutes.

B. It is the policy of the Florida Public Service Commission that all Commission hearings be open to the public at all times. The Commission also recognizes its obligation pursuant to Section 366.093, Florida Statutes, to protect proprietary confidential business information from disclosure outside the proceeding.

1. Any parties intending to utilize confidential documents at hearing for which no ruling has been made, must be prepared to present their justifications at hearing, so that a ruling can be made at hearing.

2. In the event it becomes necessary to use confidential information during the hearing, the following procedures will be observed:

- a) Any party wishing to use any proprietary confidential business information, as that term is defined in Section 366.093, Florida Statutes, shall notify the Prehearing Officer and all parties of record by the time of the Prehearing Conference, or if not known at that time, no later than seven (7) days prior to the beginning of the hearing. The notice shall include a procedure to assure that the confidential nature of the information is preserved as required by statute.
- b) Failure of any party to comply with 1) above shall be grounds to deny the party the opportunity to present evidence which is proprietary confidential business information.
- c) When confidential information is used in the hearing, parties must have copies for the Commissioners, necessary staff, and the Court Reporter, in envelopes clearly marked with the nature of the contents. 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.
- d) Counsel and witnesses are cautioned to avoid verbalizing confidential information in such a way that would compromise the confidential information. Therefore, confidential information should be presented by written exhibit when reasonably possible to do so.
- e) 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 Division of Commission Clerk and Administrative Service's confidential files.

V. 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 of no more than 50 words, set off with asterisks, shall be included in that statement. If a party's position has not changed since the issuance of the 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, Florida Administrative Code, 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.

VI. PREFILED TESTIMONY AND EXHIBITS; WITNESSES

Testimony of all witnesses to be sponsored by the parties (and Staff) has been prefiled. All testimony which has been prefiled in this case 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 appropriate objections. 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 five minutes. Upon insertion of a witness' testimony, exhibits appended thereto may be marked for identification. After all parties and Staff have had the opportunity to object and cross-examine, 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.

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.

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.

VII. ORDER OF WITNESSES

As a result of discussions at the prehearing conference, each witness whose name is preceded by an asterisk (*) has been excused from this hearing if no Commissioner assigned to this case seeks to cross-examine the particular witness. Parties shall be notified by Wednesday, November 3, 2004, whether any of those witnesses shall be required to be present at the hearing. The testimony of excused witnesses will be inserted into the record as though read, and all exhibits submitted with those witnesses' testimony shall be identified as shown in Section X of this Prehearing Order and be admitted into the record.

<u>Witness</u>	<u>Proffered By</u>	<u>Issues #</u>
<u>Direct</u>		
*Brian S. Bilinski	CUC	1, 2, 3

<u>Witness</u>	<u>Proffered By</u>	<u>Issues #</u>
*Kandi M. Floyd	PGS	1,2,3
*Gloria Lopez	City Gas	1,2,3
*Robert L. Smith	FPUC	1,2,3
*Geoffrey Hartman	FPUC	1,2,3
*Debbie Stitt	SJNG	1,2,3

VIII. BASIC POSITIONS

The parties and staff support the proposed stipulations on the issues set out below.

IX. ISSUES AND POSITIONS

STIPULATED

ISSUE 1: What is the final end of the period true-up amount for the period January 2003 through December 2003?

POSITIONS

Chesapeake Utilities	\$ 26,876	Over Recovery
City Gas Company	\$552,829	Over Recovery
Florida Public Utilities	\$ 73,072	Over Recovery
Peoples Gas	\$464,811	Under Recovery
Peoples Gas WF	\$968,511	Under Recovery
St. Joes Natural Gas	\$ 5,627	Over Recovery

STIPULATED

ISSUE 2: What are the appropriate conservation cost recovery factors for the period January 2005 through December 2005?

POSITIONS:

Chesapeake Utilities:

<u>Rate Class</u>	<u>ECCR Factor (per therm)</u>
TS-1A	\$0.18887
TS-1B	\$0.15416

ORDER NO. PSC-04-1093-PHO-GU
DOCKET NO. 040004-GU
PAGE 6

TS-1C	\$0.12782
TS-2	\$0.08106
TS-3	\$0.04518
TS-4	\$0.03477
TS-5	\$0.02978
TS-6	\$0.02411
TS-7	\$0.01460
TS-8	\$0.01228
TS-9	\$0.01081

City Gas Co.

<u>Rate Class</u>	<u>ECCR Factor (per therm)</u>
GS-1, GS-100, GS-200	\$.09302
GS-600 (Sales & Transportation)	\$.04997
GS-1200 (Sales & Transportation)	\$.03071
GS-6000 (Sales & Transportation)	\$.02520
GS-25000 (Sales & Transportation)	\$.02487
GS-60000 (Sales & Transportation)	\$.02432
Gas Lights	\$.04966
GS-120000(Sales & Transportation)	\$.01789
GS-250000(Sales & Transportation)	\$.01640

Florida Public Utilities

<u>Rate Class</u>	<u>ECCR Factor (per therm)</u>
Residential	\$.07531
Commercial Small	\$.03496
Comm. Lge. Vol.	\$.02521
Comm. Lge. Vol. Transport	\$.02521

Peoples Gas System

<u>Rate Class</u>	<u>ECCR Factor (per therm)</u>
RS	\$.05205
SGS	\$.04404
GS-1	\$.01728
GS-2	\$.01404
GS-3	\$.01180
GS-4	\$.01064
GS-5	\$.00606
NGVS	\$.00906
CSLS	\$.00753

ORDER NO. PSC-04-1093-PHO-GU
DOCKET NO. 040004-GU
PAGE 7

Peoples Gas WF:

<u>Rate Class</u>	<u>ECCR Factor (per therm)</u>
RS	\$0.19387
SGS	\$0.17525
GS-1	\$0.07171
GS-2	\$0.05681
GS-3	\$0.04756
GS-4	\$0.04315
GS-5	\$0.02394
CSLS	\$0.03033
NGVS	\$0.03033

St. Joe Natural Gas

<u>Rate Class</u>	<u>ECCR Factor (per therm)</u>
Residential	\$.00776
Commercial	\$.00652
Comm. Lge Vol.	\$.00305

STIPULATED

ISSUE 3: What should be the effective date of the cost recovery factors for billing purposes?

POSITION:

The factors should be effective beginning with the specified conservation cost recovery cycle and thereafter for the period January 2005 through December 2005. Billing cycles may start before January 1, 2005 and the last cycle may be read after December 31, 2005 so that each customer is billed for twelve months regardless of when the adjustment factor became effective.

X. EXHIBIT LIST

<u>Witness</u>	<u>Proffered By</u>	<u>I.D. No.</u>	<u>Description</u>
			<u>Direct</u>
Brian S. Bilinski	CUC	<u>BSB-1</u>	True-up variance analysis [Schedules CT1-CT6]
		<u>BSB-2</u>	Projections Recovery Clause Calculation: Estimated ECCR charges by rate classification; [Schedules C-1 through C-4]
Kandi M. Floyd	PGS	<u>KMF-1</u>	Conservation cost recovery true-up data (January 2003 - December 2003) consisting of schedules CT 1 through CT 6 (except PGS West Florida Region).
		<u>KMF-2</u>	Conservation cost recovery true-up data (January 2003 - December 2003) consisting of schedules CT 1 through CT 6 (PGS West Florida Region).

<u>Witness</u>	<u>Proffered By</u>	<u>I.D. No.</u>	<u>Description</u>
Kandi M. Floyd	PGS	KMF-3	Data for development of conservation cost recovery factors (January 1 - December 31, 2005), consisting of schedules C 1 through C 5 (except PGS West Florida Region).
		KMF-4	Data for development of conservation cost recovery factors (January 1 - December 31, 2005), consisting of schedules C 1 through C 5 (PGS West Florida Region).
Gloria Lopez	City Gas	GL-1	Schedules CT-1, CT-2 and CT-3C
		GL-2	C-1, C-2, C-3, C-5
Geoffrey Hartman	FPUC	GLH-1 (Composite)	Schedules C-1, C-2, C-3, C-5
		GLH-2 (Composite)	Schedules C-1, C-2, C-3, C-5
Robert L. Smith	FPUC	RLS-1 (Composite)	Schedules CT-1, CT-2, CT-3, CT-4 and CT-5
Debbie Stitt	SJNG	DKS-1 (Composite)	Schedules CT-1, CT-2, CT-3, CT-4 and CT-5

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

ORDER NO. PSC-04-1093-PHO-GU
DOCKET NO. 040004-GU
PAGE 10

XI. PROPOSED STIPULATIONS

The parties propose the stipulations for ISSUES 1, 2 and 3 set out in Section IX above :

XII. PENDING MOTIONS

There are no pending motions.

XIII. PENDING CONFIDENTIALITY MATTERS

There are no pending confidentiality matters.

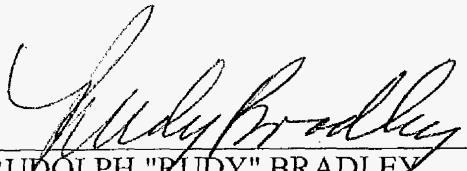
XIV. RULINGS

St. Joe Natural Gas Company's request to be excused from attending the prehearing and hearing in this docket has been granted. Peoples Gas System, Inc.'s and its attorneys' request to be excused from attending the prehearing conference has been granted.

It is therefore,

ORDERED by Commissioner Rudolph "Rudy" Bradley, 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 Rudolph "Rudy" Bradley, as Prehearing Officer, this
4th day of November, 2004.



RUDOLPH "RUDY" BRADLEY
Commissioner and Prehearing Officer

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ORDER NO. PSC-04-1093-PHO-GU
DOCKET NO. 040004-GU
PAGE 11

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 Director, Division of the Commission Clerk and Administrative Services, in the form prescribed by Rule 25-22.060, 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.