

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Natural gas conservation cost recovery.

DOCKET NO. 20210004-GU
ORDER NO. PSC-2021-0406-PHO-GU
ISSUED: October 28, 2021

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 13, 2021, in Tallahassee, Florida, before Commissioner Andrew Giles Fay, as Prehearing Officer.

APPEARANCES:

BETH KEATING, ESQUIRE, GREGORY M. MUNSON, ESQUIRE, Gunster, Yoakley & Stewart, P.A., 215 South Monroe St., Suite 601, Tallahassee, Florida 32301; and CHRISTOPHER T. WRIGHT, ESQUIRE, 700 Universe Boulevard, Juno Beach, Florida 33408
On behalf of FLORIDA CITY GAS (FCG).

BETH KEATING, ESQUIRE, Gunster, Yoakley & Stewart, P.A., 215 South Monroe St., Suite 601, Tallahassee, Florida 32301
On behalf of FLORIDA PUBLIC UTILITIES COMPANY (FPUC), FLORIDA PUBLIC UTILITIES COMPANY-FORT MEADE, FLORIDA PUBLIC UTILITIES COMPANY-INDIANTOWN DIVISION, FLORIDA DIVISION OF CHESAPEAKE UTILITIES CORPORATION (CUC) (jointly, CONSOLIDATED COMPANIES), and on behalf of SEBRING GAS SYSTEM (SEBRING).

ANDREW M. BROWN, ESQUIRE, and THOMAS R. FARRIOR, ESQUIRE, Macfarlane Ferguson & McMullen, P.O. Box 1531, Tampa, Florida 33601-1531
On behalf of PEOPLES GAS SYSTEM (PGS).

ANDY SHOAF, P.O. Box 549, Port St. Joe, Florida 32457-0549
On behalf of ST. JOE NATURAL GAS COMPANY, INC. (SJNG).

RICHARD GENTRY, ESQUIRE, and CHARLES J. REHWINKEL, ESQUIRE 111 West Madison Street, Room 812, Tallahassee, Florida 32399-1400
On behalf of OFFICE OF PUBLIC COUNSEL (OPC).

LEE ENG TAN, ESQUIRE, and MATTHEW JONES, 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

Advisor to the Florida Public Service Commission.

KEITH C. HETRICK, ESQUIRE, General Counsel, Florida Public Service Commission, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850
Florida Public Service Commission General Counsel.

I. CASE BACKGROUND

As part of the Commission's continuing natural gas conservation cost recovery clause proceedings, an administrative hearing is set for November 2-4, 2021. The clause proceedings allow gas companies to seek recovery of its costs for approved gas conservation programs on an annual basis, pursuant to Sections 366.80-366.83, Florida Statutes (F.S.), and Chapter 25-17, Florida Administrative Code (F.A.C.).

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 Chapter 366, F.S. This hearing will be governed by said Chapter 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 follow the procedures for providing confidential electronic exhibits to the Commission Clerk prior to the hearing.
- (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.

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 (and Staff) 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	1-8
Curtis Young*	Consolidated Companies	1
Kira I. Lake*	Consolidated Companies	2-8
Karen L. Bramley*	PGS	1-8
Debbie Stitt*	SJNG	1-8
Jerry H. Melendy*	SEBRING	1-7

**All witnesses 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 NGCCR Factors as shown in the Company's positions on Issue Nos. 1 through 7 below. The Company's final true-up amount for 2020, Actual/Estimated True-Up amount for 2021, and proposed 2022 NGCCR Factors are consistent with the Commission's methodology for calculating the net true-up and recovery factors for the natural gas conservation programs and, therefore, should be approved. FCG submits that the proposed 2022 NGCCR Factors are appropriate for application to customers' bills beginning the first billing cycle in January 2022 through the last billing cycle in December 2022 and continuing until modified by subsequent order of the Commission.

Consolidated

Companies: The Commission should approve the Consolidated Companies' respective final net true-ups for the period January through December 2020, the estimated true-up for the period January through December, 2021, and the projected conservation

program expenses and recovery factors for the period January through December, 2022.

PGS: The Commission should approve that Peoples Gas System has properly calculated its conservation cost recovery true-up and projections and the natural gas conservation cost recovery factors set forth in the testimony and exhibits of Witness Karen L. Bramley during the period January 2022 through December 2022.

SEBRING: The Commission should approve Sebring's respective final net true-ups for the period January through December 2020, the estimated true-up for the period January through December, 2021, and the projected conservation program expenses and recovery factors for the period January through December, 2022.

SJNG: The Commission should approve the final adjusted net true-up amount for the twelve-month period ending December 21, 2021 including interest, the projected conservation program expenses for the twelve-month period ending Dec 31, 2022 and the Conservation Cost Recovery Factors to be applied to customer bills rendered for the twelve-month period ending December 21, 2022 as filed by SJNG.

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 2 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. company's last test year upon which rates are based, and such costs may not be costs that are recovered through base rates or any other cost recovery mechanism.

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 1-9 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 NGCCR true-up amount related to the twelve-month period ended December 31, 2020
Miguel Bustos	FCG	MB-2	Commission prescribed forms supporting calculation of FCG's Actual/Estimated True-Up amount for the current period January 2021 through December 2021 and FCG's proposed 2022 NGCCR Factors
Curtis Young	Consolidated Companies	CDY-1	True-Up Variance Analysis [Schedules CT1-CT6]
Kira I. Lake	Consolidated Companies	KIL-1	Projections: Estimated ECCR charges by rate class [Schedules C-1 through C-4]
Karen L. Bramley	PGS	KLB-1	Schedules supporting cost recovery factor, actual January 2020 – December 2020
Karen L. Bramley	PGS	KLB-2	Schedules supporting conservation costs projected for the period January 2022 – December 2022
Jerry Melendy	Sebring	JHM-1	True-Up Variance Analysis [Schedules CT1-CT6]

<u>Witness</u>	<u>Proffered By</u>		<u>Description</u>
Jerry Melendy	Sebring	JHM-2	Projections: Estimated ECCR charges by rate class [Schedules C-1 through C-4]
Debbie Stitt	SJNG	DKS-1	Schedules CT-1, CT-2, CT-3, CT-4, and CT-5
Debbie Stitt	SJNG	DKS-2	C1, C2, C3, and C4

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

X. PROPOSED STIPULATIONS

There are proposed Type 2 stipulations¹ for Issues 1-9 as stated below.

FCG, the Consolidated Companies, PGS, Sebring, SJNG, and Commission staff support the proposed stipulations. The OPC position on each Type 2 stipulation is as follows:

OPC takes no position on these 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 a proposed stipulation between the Company and another party or staff as a final resolution of the issue. No person is authorized to state that the OPC is a participant in, or party to, a stipulation on these issues, either in this docket, in an order of the Commission or in a representation to a Court.

All witnesses have been excused with testimony and exhibits to be included in the record.

ISSUE 1: **What are the final conservation cost recovery adjustment true-up amounts for the period January 2020 through December 2020?**

STIPULATION: The appropriate final conservation cost recovery true-up amounts for the period January 2020 through December 2020 are as follows:

¹ 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.

- For PGS, the final conservation cost recovery adjustment true-up amount for January 2020 through December 2020 is an under-recovery of \$732,504, as reflected in Schedule CT-1, Page 1 of 1, in Exhibit KLB-1.
- For FCG, the final conservation cost recovery adjustment true-up amount for January 2020 through December 2020 is an under-recovery of \$533,692, as reflected in Schedule CT-1, Page 1 of 1, in Exhibit No. MB-1.
- For Consolidated Companies, the final conservation cost recovery adjustment true-up amount for January 2020 through December 2020 is an under-recovery of \$443,434 as reflected in Schedule CT-1, Page 1 of 1, in Exhibit No. CDY-1.
- For SGS, the final conservation cost recovery adjustment true-up amount for January 2020 through December 2020 is an under-recovery of \$12,927, as reflected in Schedule CT-1, Page 1 of 1, in Exhibit No. JHM-1.
- For SJNG, the final conservation cost recovery adjustment true-up amount for January 2020 through December 2020 is an over-recovery of \$17,251, as reflected in Schedule CT-1, Page 1 of 1, in Exhibit No. DKS-1.

ISSUE 2: **What are the appropriate conservation adjustment actual/estimated true-up amounts for the period January 2021 through December 2021?**

STIPULATION: The appropriate conservation cost adjustment actual/estimated true-up amounts, including interest, for the period January 2021 through December 2021 are as follows:

- For PGS, the appropriate conservation adjustment actual/estimated true-up amounts for the period January 2021 through December 2021 is an under-recovery of \$2,078,274.
- For FCG, the appropriate conservation adjustment actual/estimated true-up amounts for the period January 2021 through December 2021 is an under-recovery of \$288,868.
- For Consolidated Companies, the appropriate conservation adjustment actual/estimated true-up amounts for the period January 2021 through December 2021 is an over-recovery of \$769,847.
- For SGS, the appropriate conservation adjustment actual/estimated true-up amounts for the period January 2021 through December 2021 is an under-recovery of \$19,460.
- For SJNG, the appropriate conservation adjustment actual/estimated true-up amounts for the period January 2021 through December 2021 is an over-recovery of \$63,826.

ISSUE 3: **What are the appropriate total conservation adjustment true-up amounts to be collected/refunded from the period January 2021 through December 2021?**

STIPULATION: The appropriate total conservation adjustment true-up amounts, including interest, to be collected/refunded from January 2021 through December 2021 are as follows:

- For PGS, the appropriate total conservation adjustment true-up amounts for the period January 2021 through December 2021 is an under-recovery of \$ 2,810,778 as reflected in Schedule C-3, Page 3 of 4, in Exhibit KLB-2.
- For FCG, the appropriate total conservation adjustment true-up amounts for the period January 2021 through December 2021 is an under-recovery of \$822,560 as reflected in Schedule C-3, Page 4 of 5, in Exhibit MB-2.
- For Consolidated Companies, the appropriate total conservation adjustment true-up amounts for the period January 2021 through December 2021 is an over-recovery of \$326,413 as reflected on Schedule C-3, Page 4 of 5, in Exhibit KIL-1.
- For SGS, the appropriate total conservation adjustment true-up amounts for the period January 2021 through December 2021 is an under-recovery of \$32,387 as reflected in Schedule C-3, Page 4 of 5, in Exhibit JHM-2.
- For SJNG, the appropriate total conservation adjustment true-up amounts for the period January 2021 through December 2021 is an over-recovery of \$81,077 as reflected in Schedule C-3, Page 4 of 5, in Exhibit DKS-2.

ISSUE 4: **What is the total conservation cost recovery amounts to be collected during the period January 2022 through December 2022?**

STIPULATION: The total conservation cost recovery amounts to be collected during the period January 2022 through December 2022 are as follows:

- For PGS, the appropriate total conservation cost recovery amounts to be collected during the period January 2022 through December 2022 is \$26,011,848, as reflected in Schedule C-1, Page 1 of 1, in Exhibit KLB-2.
- For FCG, the appropriate total conservation cost recovery amounts to be collected during the period January 2022 through December 2022 is \$7,482,015, as reflected in Schedule C-1, Page 1 of 1, in Exhibit MB-2.
- For Consolidated Companies, the appropriate total conservation cost recovery amounts to be collected during the period January 2022 through December 2022 is \$4,692,087, as reflected in Schedule C-1, Page 1 of 1, in Exhibit KIL-1.

- For SGS, the appropriate total conservation cost recovery amounts to be collected during the period January 2022 through December 2022 is \$59,820, as reflected in Revised Schedule C-1, Page 1 of 1, in Exhibit JHM-1.
- For SJNG, the appropriate total conservation cost recovery amounts to be collected during the period January 2022 through December 2022 is \$122,398, as reflected in Schedule C-1, Page 1 of 1, in Exhibit DKS-2.

ISSUE 5: **What are the conservation cost recovery factors for the period January 2022 through December 2022?**

STIPULATION: The appropriate conservation cost recovery factors for the period January 2022 through December 2022 are as follows:

PGS:

<u>Rate Schedule</u>	<u>Cost Recovery Factors</u> <u>(\$/per therm)</u>
RS & RS-SG & RS-GHP	\$0.13116
SGS	\$0.08094
GS-1 & CS-SG & CS-GHP	\$0.04107
GS-2	\$0.03100
GS-3	\$0.02617
GS-4	\$0.01901
GS-5	\$0.01329
CSLS	\$0.02660

FCG:

<u>Rate Class</u>	<u>Cost Recovery Factor</u> <u>(\$/per therm)</u>
RS-1	\$0.27057
RS-100	\$0.17325
RS-600	\$0.09718
GS-1	\$0.06055
GS-6K	\$0.04700
GS-25K	\$0.04551
Gas Lights	\$0.07295
GS-120K	\$0.03040
GS-1250K	\$0.01797
GS-11M	\$0.00000
GS-25M	\$0.00000

FPUC Utilities – Chesapeake Corporation:

<u>Rate Class</u>	<u>Cost Recovery Factor</u> <u>(\$/per therm)</u>
FTS-A	\$0.21173
FTS-B	\$0.16429
FTS-1	\$0.14627
FTS-2	\$0.08113
FTS-2.1	\$0.05816
FTS-3	\$0.05020
FTS-3.1	\$0.03672
FTS-4	\$0.03070
FTS-5	\$0.02681
FTS-6	\$0.02165
FTS-7	\$0.01486
FTS-8	\$0.01337
FTS-9	\$0.01122
FTS-10	\$0.01032
FTS-11	\$0.00744
FTS-12	\$0.00766
FTS-NGV	\$0.01443

The Company also seeks approval of the following experimental per bill Conservation Cost Recovery Adjustment (Experimental) factors for Chesapeake:

<u>Rate Class</u>	<u>Cost Recovery Factor</u> <u>(\$ per bill)</u>
FTS-A	\$1.34
FTS-B	\$1.74
FTS-1	\$2.17
FTS-2	\$4.27
FTS-2.1	\$6.05
FTS-3	\$15.20
FTS-3.1	\$21.08

FPUC and Fort Meade:

<u>Rate Class</u>	<u>Cost Recovery Factor</u> <u>(\$ per therm)</u>
Residential	\$0.08627
Commercial Small (Gen Srv GS1 & GS1 Transportation <600)	\$0.05498
Commercial Small (Gen Srv GS2 & GS2 Transportation >600)	\$0.04090
Commercial Large (Large Vol & LV Transportation <, > 50,000 units)	\$0.03407
Natural Gas Vehicles	\$0.01461

FPUC – Indiantown:

<u>Rate Class</u>	<u>Cost Recovery Factor</u> <u>(\$ per therm)</u>
TS1 (Indiantown Division)	\$0.08395
TS2 (Indiantown Division)	\$0.01167
TS3 (Indiantown Division)	\$0.01658
TS4 (Indiantown Division)	\$0.00000

SEBRING:

<u>Rate Class</u>	<u>Cost Recovery Factor</u> <u>(\$ per therm)</u>
TS-1	\$0.20867
TS-2	\$0.09056
TS-3	\$0.05580
TS-4	\$0.04914

SJNG:

<u>Rate Class:</u>	<u>Cost Recovery Factor</u> <u>(\$ per therm)</u>
RS-1	\$0.34498
RS-2	\$0.23544
RS-3	\$0.18631
GS-1	\$0.13503
GS-2	\$0.06541
FTS-4/GS-4	\$0.04748

ISSUE 6: **Should the Commission approve revised tariffs reflecting the natural gas conservation cost recovery amounts and establishing natural gas conservation cost recovery factors determined to be appropriate in this proceeding?**

STIPULATION: Yes. The Commission should approve revised tariffs reflecting the new energy conservation cost 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.

ISSUE 7: **What should be the effective date of the new conservation cost recovery factors for billing purposes?**

STIPULATION: The factors should be effective beginning with the specified conservation cost recovery cycle and thereafter for the period January 2022 through December 2022. Billing cycles may start before January 1, 2022 and the last cycle may be read after December 31, 2022, so that each customer is billed for twelve months regardless of when the adjustment factor became effective.

COMPANY-SPECIFIC CONSERVATION COST RECOVERY ISSUES

Florida Public Utilities Company - Chesapeake

ISSUE 8: Should the Commission approve Florida Division of Chesapeake Utilities Corporation's (FPUC-Chesapeake) Petition to establish a conservation cost recovery factor for the FTS-NGV rate class, and if so, what is the appropriate conservation cost recovery factor for the period January 2022 through December 2022?

STIPULATION: Yes. The Commission should approve FPUC-Chesapeake's Petition to establish a conservation cost recovery factor for the FTS-NGV rate class, and the appropriate conservation cost recovery factor for the period January 2022 through December 2022 should be 0.01443 dollars per therm.

ISSUE 9: **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.

Each witness shall be given three minutes for a summary of their testimony.

The parties shall provide cross-examination exhibits, including impeachment exhibits, to the Commission Clerk by the close of business on October 25, 2021, following the procedures set forth in Attachment A. The exhibits that are pre-filed and designated as cross-examination or impeachment exhibits will not be viewed by opposing witnesses or opposing counsel or otherwise have their contents or identity communicated to such witnesses or counsel.

It is therefore,

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

ORDER NO. PSC-2021-0406-PHO-GU

DOCKET NO. 20210004-GU

PAGE 16

By ORDER of Commissioner Andrew Giles Fay, as Prehearing Officer, this 28th day of October, 2021.



ANDREW GILES FAY
Commissioner and Prehearing Officer
Florida Public Service Commission
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Tallahassee, Florida 32399
(850) 413-6770
www.floridapsc.com

Copies furnished: A copy of this document is provided to the parties of record at the time of issuance and, if applicable, interested persons.

TLT/MJJ

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.

ATTACHMENT A

Requirements related to providing Cross-Examination Exhibits prior to Hearing

By October 25, 2021, each party must provide the Commission Clerk an electronic copy of all cross-examination exhibits, including impeachment exhibits, the party plans to use during the hearing. All cross-examination exhibits must be provided to the Clerk's Office on either USB flash drives or CDs. Confidential documents must be placed on one USB flash drive or CD, and non-confidential exhibits must be placed on a different or separate USB flash drive or CD. This is because the Clerk's Office will process the confidential exhibits, and will transmit all non-confidential exhibits to the General Counsel's Office for processing. All USB flash drives or CDs provided to the Clerk's Office must be clearly labeled as confidential or non-confidential, and the label must also include the Docket Number(s) and the name of the party providing the exhibits.

Each party must also provide to the Clerk by October 25, 2021, a table listing the exhibit numbers and short titles of each cross-examination exhibit provided to the Clerk. Pursuant to Rule 25-22.006(3), F.A.C., a notice of intent to request confidential classification must be filed for all confidential information.

Each party must pre-number each exhibit with the following sequential numbering system that clearly denotes confidential exhibits. For example, DEF will pre-identify its cross-examination exhibits DEF-1, DEF-2, DEF-3, etc. All confidential exhibits must include the letter "C" placed after the number. Thus, if DEF's third exhibit is confidential, it will be labeled DEF-3C.

Each exhibit must be saved as a separate electronic file, and each file must be labeled with the exhibit number that reflects the information contained in the exhibit. The exhibit number will serve as the filename in the virtual folder during the hearing. Each exhibit must also include a cover page that includes the exhibit number. In addition, each exhibit must include sequentially numbered pages. The page numbers must be placed in the upper right-hand corner of each page.

The confidential and non-confidential cross-examination exhibits will be made available to the parties in virtual folders the day before the hearing. The cross-examination exhibits will be made available to the parties for the sole purpose of providing the witnesses and their counsel with the opportunity to print the exhibits or download them to their electronic devices for use during the hearing.² The parties must not view or read the exhibits prior to the hearing. Parties will be provided usernames and passwords by Commission staff that will give them access to the confidential exhibits and any other confidential information that will be used during the hearing. By October 25, 2021, parties must provide the Commission Clerk with the list of names of those persons who should be given a user name and password to access confidential information.

² Microsoft Chrome is the best internet browser to use to access the virtual folder.