

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Joint Petition of Peoples :  
Gas System, Inc., Plant City : Docket No:  
Natural Gas Company, and Central :  
Florida Gas Company for Approval : Submitted for Filing:  
of Territorial Agreement : 10-11-89

JOINT PETITION FOR PROPOSED AGENCY ACTION

Petitioners, PEOPLES GAS SYSTEM, INC., ("PGS"), PLANT CITY NATURAL GAS COMPANY ("PLANT CITY") and CENTRAL FLORIDA GAS COMPANY ("CENTRAL FLORIDA"), by their undersigned attorneys, and pursuant to Section 366.04(3), Florida Statutes (as added by Chapter 89-292, Laws of Florida), file this their Petition for approval, on the basis of "Proposed Agency Action", of a Territorial Boundary Agreement identifying and establishing, as between PGS, on the one hand, and, on the other, PLANT CITY and CENTRAL FLORIDA, the natural gas service areas of the parties inside or along the governmental boundaries of Polk County. In support of their Petition, the Petitioners state as follows:

1. The names and addresses of the Petitioners are:

Peoples Gas System, Inc.  
Post Office Box 2562  
Tampa, Florida 33601-2562

Plant City Natural Gas Company  
607 South Evers Street  
Plant City, Florida 33566

Central Florida Gas Company  
1015 - 6th Street, N.W.  
Winter Haven, Florida 33881

2. The persons to whom notices, orders and pleadings in this docket should be addressed are:

DOCUMENT NUMBER-DATE

10134 OCT 11 1989

FPSC-RECORDS/REPORTING

Ansley Watson, Jr., Esquire  
Macfarlane, Ferguson, Allison & Kelly  
Post Office Box 1531  
Tampa, Florida 33601-1531

Ben E. Girtman, Esquire  
Suite 207  
1020 East Lafayette Street  
Tallahassee, Florida 32301

3. By this Petition, Petitioners jointly seek approval for the Territorial Boundary Agreement executed by the Petitioners on October 6, 1989, a true copy of which is attached hereto as Appendix "A".

4. PGS presently provides natural gas service in the western portion of Polk County near the Hillsborough County-Polk County line. PLANT CITY presently provides natural gas service in the eastern portion of Hillsborough County near the Hillsborough County-Polk County line.

5. A dispute arose between PGS and PLANT CITY regarding which of them should provide service to potential customers within portions of the Lakeland Regional Industrial Park, located in Polk County northeast of the intersection of the Hillsborough County-Polk County Line with U.S. Highway 92. PGS filed a complaint with the Commission to resolve that dispute, which complaint is presently pending before the Commission in Docket No. 890877-GU.

6. Both PGS (pursuant to action taken by PLANT CITY) and PLANT CITY (pursuant to action taken by PGS) are presently prohibited, by temporary injunctions entered by the Circuit Court of Polk County in Case No. GC-G-89-2029 (initiated by PLANT CITY

due, at the time, to the uncertainty regarding jurisdictional authority to resolve the aforementioned dispute), from constructing gas mains north of U.S. Highway 92 along County Line Road (as it lies along the Hillsborough County-Polk County line) toward or upon the Lakeland Regional Industrial Park in Polk County, until such time as the Commission or the Circuit Court of Polk County, as appropriate, renders a ruling on PGS's Complaint in Docket No. 890877-GU, or until further order of said Circuit Court. Should such Temporary Injunctions remain in effect, potential natural gas customers will, at least temporarily, be unable to obtain service from either PGS or PLANT CITY.

7. In addition to the aforementioned dispute, the areas in which PGS, on the one hand, and PLANT CITY and CENTRAL FLORIDA, on the other, are providing or holding themselves out to provide natural gas service are in close proximity and abut (in the case of PGS and PLANT CITY) in the vicinity of the Hillsborough County-Polk County Line, and (in the case of PGS and CENTRAL FLORIDA) in certain areas between Lakeland and Auburndale.

8. Petitioners PGS and PLANT CITY desire to settle the disputes between them pending in Docket 890877-GU and in the Circuit Court of Polk County, and all Petitioners desire to cooperate in the public interest in supplying service in a manner which will avoid uneconomic waste, potential safety hazards, and other adverse effects that would result from duplication of natural gas distribution facilities in the same area. In view of these desires, and the Territorial Boundary Agreement attached hereto, PGS and PLANT CITY are taking those

actions necessary to obtain dissolution of the Temporary Injunctions entered by the Circuit Court in Polk County, and dismissal of the case in which they were entered.

9. The Territorial Boundary Agreement attached hereto as Appendix "A" clearly identifies the geographical areas to be served by each of the Petitioners inside or along the governmental boundaries of Polk County, and includes a detailed map, a complete written description of the areas, terms and conditions pertaining to implementation of the Agreement, and other terms and conditions pertaining to the provision of natural gas service by the Petitioners.

10. Application of the Territorial Boundary Agreement, upon approval by the Commission, will be prospective only, and no existing customers will be required to be transferred from one Petitioner to another. Thus, no existing customers of any of the Petitioners will be affected by the Commission's approval of such Agreement.

11. Petitioners respectfully submit that the Territorial Boundary Agreement will not, in and of itself, either increase the cost of providing natural gas service to the general body of the existing or future ratepayers of any of the Petitioners, or cause a decrease in the reliability of natural gas service to existing or future ratepayers of any of the Petitioners. Petitioners further submit that the Agreement will eliminate potential non-economic duplication of facilities within the area covered by the Agreement.

12. Pursuant to Section 366.04(3), Florida Statutes (as added to Chapter 366 by Chapter 89-292, Laws of Florida), the Commission has jurisdiction to approve the Territorial Boundary Agreement submitted herewith as Appendix "A".

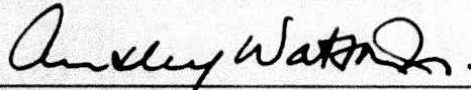
WHEREFORE, Petitioners respectfully request that the Commission:

1. Approve the Territorial Boundary Agreement attached hereto as Appendix "A";

2. Expedite its consideration and disposition of this Petition by use of the proposed agency action procedure; and

3. Upon approval of the Territorial Boundary Agreement, dismiss, as moot, PGS's Complaint against PLANT CITY in Docket No. 890877-GU.

Respectfully submitted,



---

ANSLEY WATSON, JR. of  
MACFARLANE, FERGUSON, ALLISON & KELLY  
Post Office Box 1531  
Tampa, Florida 33601-1531  
(813) 223-2411  
Attorneys for Peoples Gas System, Inc.

and



---

BEN E. GIRTMAN  
Suite 207  
1020 E. Lafayette Street  
Tallahassee, Florida 32301  
(904) 656-3232  
Attorney for Plant City Natural Gas  
Company and Central Florida Gas Company

## TERRITORIAL BOUNDARY AGREEMENT

Section 0.1 THIS AGREEMENT, made and entered into this 6<sup>TH</sup> day of October, 1989, by and between PEOPLES GAS SYSTEM, INC., a corporation organized and existing under the laws of the State of Florida, herein referred to as "PGS"; and PLANT CITY NATURAL GAS COMPANY, herein referred to as "PLANT CITY", and CENTRAL FLORIDA GAS COMPANY, herein referred to as "CENTRAL FLORIDA", divisions of Chesapeake Utilities Corporation, a corporation organized and existing under the laws of the State of Delaware;

### WITNESSETH:

Section 0.2 WHEREAS, PGS is presently providing natural gas service in the western portion of Polk County near the Hillsborough County-Polk County Line.

Section 0.3 WHEREAS, PLANT CITY is presently providing natural gas service in the eastern portion of Hillsborough County near the Hillsborough County-Polk County Line.

Section 0.4 WHEREAS, a dispute has arisen between PGS and PLANT CITY regarding which of them should provide service to potential customers within portions of the Lakeland Regional Industrial Park, located in Polk County northeast of the intersection of the Hillsborough County-Polk County Line with U.S. Highway 92, and PGS's Complaint to resolve such dispute is presently pending before the Florida Public Service Commission (herein referred to as the "FPSC") in Docket No. 890877-GU.

Section 0.5 WHEREAS, both PGS (pursuant to action taken by PLANT CITY) and PLANT CITY (pursuant to action taken by PGS) are presently prohibited, by Temporary Injunctions entered by the Circuit Court of Polk County in Case No. GC-G-89-2029 (initiated by PLANT CITY due to the uncertainty regarding jurisdictional authority to resolve this dispute), from constructing gas main pipes north of Route 92 along County Line Road (as it lies along the Hillsborough County-Polk County Line) toward or upon the Lakeland Regional Industrial Park in Polk County until such time as the FPSC or the Circuit Court of Polk County, as appropriate, renders a ruling on PGS's Complaint in FPSC Docket No. 890877-GU or until further order of said Circuit Court.

Section 0.6 WHEREAS, PGS and PLANT CITY desire to settle the dispute between them in Docket No. 890877-GU in order that present and future applicants for natural gas service may expeditiously obtain such service from one or the other of them.

Section 0.7 WHEREAS, the areas in which PGS, on the one hand, and PLANT CITY and CENTRAL FLORIDA, on the other, are providing or holding themselves out to provide natural gas service are in close proximity and abut (in the case of PGS and PLANT CITY) in the vicinity of the Hillsborough County-Polk County line, and (in the case of PGS and CENTRAL FLORIDA) in certain areas between Lakeland and Auburndale, and the parties desire to cooperate in the public interest in supplying service in a manner which will

avoid uneconomic waste, potential safety hazards and other adverse effects that would result from duplication of natural gas distribution facilities in the same area.

**Section 0.8** WHEREAS, the execution of this Agreement by the parties hereto is not conditioned upon the acceptance of or agreement to any other contractual arrangements pending or contemplated by or between the parties.

**Section 0.9** NOW, THEREFORE, in consideration of the foregoing premises and of the mutual and public benefits to be obtained from the covenants herein set forth, the parties hereto do hereby agree as follows:

#### **ARTICLE I**

##### **TERM OF AGREEMENT**

**Section 1.1** After this Agreement becomes effective pursuant to Section 3.4 hereof, it shall continue in effect until modification shall be mutually agreed upon and approved by the FPSC, or until termination or modification shall be mandated by a governmental entity or court with appropriate jurisdiction.

#### **ARTICLE II**

##### **ESSENCE OF AGREEMENT**

**Section 2.1** The boundary lines inside or along the governmental boundaries of Polk County delineating, as between PGS, on the one hand, and, on the other, PLANT CITY and CENTRAL FLORIDA, the natural gas service areas of the parties established



by this Agreement are marked on the map attached hereto and labeled Exhibit A, and said boundary lines are further described as follows:

Western Boundary: From the intersection of State Road 54 with the Pasco County-Polk County line (west of State Road 35), run south along the Pasco County-Polk County line to its intersection with the Hillsborough County line, then east along the Hillsborough County-Polk County line to the northeast corner of Hillsborough County, then south along the Hillsborough County-Polk County line to the northern terminus of County Line Road, then southerly along the centerline of County Line Road to its intersection with the centerline of State Road 60.

Southern Boundary: From the southern terminus of the Western Boundary described above, run east along an imaginary line to an imaginary line made by extending south the centerline of Yarborough Lane, then north to an imaginary line made by extending west the centerline of Wallace Road, then east to a point which is 0.4 mile east of the section line between Sections 7 and 8, Township 29 South, Range 25 East (in approximate center of Lake Hancock).

Eastern Boundary: From the eastern terminus of the Southern Boundary described above, run north to a point 200 feet south of the centerline of U.S. Highway 92, then westerly (along a line generally parallel to and 200 feet south of the centerline of U.S. Highway 92) to a point which is 0.3 mile west of Old Dixie Highway, then north to a point 200 feet north of the centerline of U.S. Highway 92, then easterly (along a line generally parallel to and 200 feet north of the centerline of U.S. Highway 92) to an imaginary line extending north from a point which is 0.4 mile east of the section line between Sections 7 and 8, Township 29 South, Range 25 East (in the approximate center of Lake Hancock), then north to the Polk County-Lake County line.

Northern Boundary: From the northern terminus of the Eastern Boundary described above, run west, south and west along the Polk County-Lake County line to its intersection with the Sumter County line, then south along the Polk County-Sumter County line to the Withlacoochee River, then westerly along the Withlacoochee River to its intersection with the Pasco County line, then south and west along the Pasco County-Polk County line to the point of beginning of the Western Boundary described above.

In the event of any conflict between the boundary lines as marked on Exhibit A, and the written descriptions of such boundary lines set forth in this section, said written descriptions shall control.

**Section 2.2** That area in Polk County lying within the boundaries described in Section 2.1 is reserved to PGS (as relates to PLANT CITY and CENTRAL FLORIDA) with respect to service to natural gas customers. That area in Polk County (and that area in Hillsborough County shown on Exhibit A) lying outside the boundaries described in Section 2.1 is reserved to PLANT CITY and/or CENTRAL FLORIDA (as relates to PGS) with respect to service to natural gas customers. In addition, although lying within the boundaries described in Section 2.1, PLANT CITY shall be entitled to provide natural gas service to that property located in the Lakeland Regional Industrial Park owned by MPI, Inc., its successors and assigns. This Agreement shall have no effect on the boundaries of the respective service areas of the parties hereto as the same may now or hereafter exist except as specifically provided herein.

**Section 2.3** Each of the parties agrees that it will not, except as provided in Section 2.5, provide or offer to provide natural gas service to future customers within the territory herein reserved to the other party or parties.

**Section 2.4** The parties recognize that, in specific instances, good engineering practices (or economic constraints on one of the parties) may from time-to-time indicate that small service areas

and/or future natural gas customers should not be served by the party in whose territory such areas or customers are then located under Section 2.2. In such instances, the parties agree to jointly and expeditiously seek approval of the FPSC for modification of this Agreement in order to permit the appropriate party to provide service to such small service areas and/or future natural gas customers.

Section 2.5 To help facilitate the provision of natural gas service to customers and to minimize costs and delays in providing such service, a party to this Agreement which has a gas main installed on its side of a boundary line established in Section 2.1 of this Agreement may temporarily serve customers located on the other side of such boundary line in territory herein reserved to another party; provided, however, that when such temporary service is contemplated by a party, it shall give written notice, setting forth the details of such contemplated service, to the party in whose territory the customer is located under Section 2.2 of this Agreement, and to the FPSC, before installing any additional facilities needed for the provision of such temporary service. At such time as the party in whose territory such customers are located under Section 2.2 has a gas main available for providing natural gas service to such customers, the party providing temporary service pursuant to this section shall surrender any such customers upon the request of the party in whose territory such customers are located, and shall convey to such other party, at depreciated book value, such

gas mains, service lines, and appurtenances thereto (previously used by the party in providing temporary service and located in the territory of the party which will provide service thereafter) as may be required by the party to serve such customers. Any customer who receives temporary natural gas service under the provisions of this section shall be notified in advance that, when service is available from the party in whose territory such customer is located, the customer will be required to receive service from such party at its then-current rates, and that such temporary service is provided only as a temporary convenience to the customer.

Section 2.6 Nothing in this Agreement is intended to affect the gate stations, regulators, or gas mains of one party which are now or which may in the future be located in the service area of another party, and any problems between the respective parties involving these types of facilities shall be settled at the General Office level of the parties. No such facilities shall be used by one party to provide natural gas service to customers located in the service area of another party except as may be necessary to implement the provisions of Section 2.2 or 2.5 hereof as the same may be in effect from time to time.

### ARTICLE III

#### MISCELLANEOUS PROVISIONS

Section 3.1 The failure of any party to enforce any provision of this Agreement in any instance shall not be construed as a waiver or relinquishment on its part of any such provision but the same shall nevertheless be and remain in full force and effect.

Section 3.2 This Agreement shall inure to the benefit of and be binding upon the successors and assigns of the parties hereto.

Section 3.3 This Agreement shall be governed by the laws of the State of Florida.

Section 3.4 The parties hereto recognize and agree that each of them is subject to the jurisdiction of the FPSC and further agree that this Agreement shall have no force and effect unless and until it is submitted to and approved by the FPSC in accordance with applicable procedures. The parties further agree that this Agreement, if and when approved by the FPSC, shall be subject to the continuing jurisdiction of the FPSC and may be terminated or modified only by Order of the FPSC. No modification or termination of this Agreement by the parties hereto shall be effective unless and until approved by the FPSC (or any successor agency with power to consider approval or modification hereof). Each party agrees to promptly notify the others in writing of any petition, application or request for

modification of this Agreement made to the FPSC and to serve upon the other parties copies of all pleadings or other papers filed in connection therewith.

**Section 3.5** This Agreement shall be effective on the date it is approved by the FPSC in accordance with Section 3.4 hereof. As soon as practicable following the effective date of this Agreement, each party agrees to file any revisions to its tariffs on file with the FPSC which may be required as a result of the FPSC's approval hereof, and shall provide a copy of any such tariff revisions to the other parties.

**Section 3.6** As soon as practicable following the effective date of this Agreement, PGS and PLANT CITY agree to take such actions as may be required to obtain dissolution of the Temporary Injunctions entered in Case No. GC-G-89-2029 by the Circuit Court of Polk County, dismissal of such action, and dismissal of the proceeding before the FPSC in Docket No. 890877-GU.

**Section 3.7** This Agreement may be executed in several counterparts, each of which shall be an original, and all of which shall constitute but one agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their duly authorized officers as of the date and year first above stated.

ATTEST:

PEOPLES GAS SYSTEM, INC.

By: *R. P. ...*

By: *John A. Brakson, Jr.*

ATTEST:

PLANT CITY NATURAL GAS COMPANY,  
A Division of Chesapeake Utilities Corporation

By: *Philip Bangert*

By: *John W. ...*

ATTEST:

CENTRAL FLORIDA GAS COMPANY,  
A Division of Chesapeake Utilities Corporation

By: *Philip Bangert*

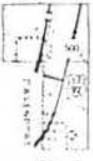
By: *John W. ...*

# EXHIBIT A

SUMTER CO CO

Withlacoochee River

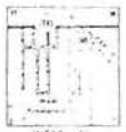
River



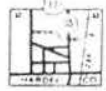
INSET 1  
SCALE 1:50,000



INSET 2  
SCALE 1:25,000



INSET 3  
SCALE 1:25,000



INSET 4  
SCALE 1:25,000

