

BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

DOCKET NO. 010003-GU

In the Matter of
PURCHASED GAS ADJUSTMENT
(PGA) TRUE-UP.

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PROCEEDINGS: PREHEARING CONFERENCE

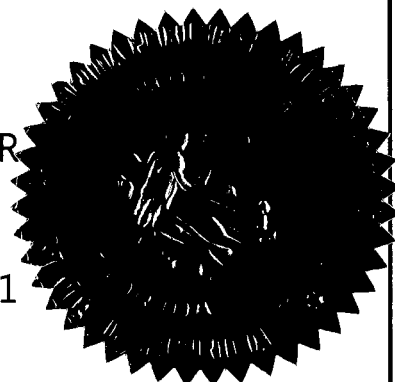
BEFORE: COMMISSIONER LILA A. JABER
Prehearing Officer

DATE: Thursday, November 8, 2001

TIME: Commenced at 9:30 a.m.
Concluded 1:35 p.m.

PLACE: Betty Easley Conference Center
Room 148
4075 Esplanade Way
Tallahassee, Florida

REPORTED BY: JANE FAUROT, RPR
Chief, Office of Hearing Reporter Services
FPSC Division of Commission Clerk and
Administrative Services
(850) 413-6732



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1 APPEARANCES:

2 WAYNE L. SCHIEFELBEIN, P. O. Box 15856, Tallahassee,
3 Florida 32317, appearing on behalf of the Florida Division of
4 Chesapeake Utilities Corporation (CUC).

5 RICHARD D. MELSON, Hopping Green Sams and Smith, Post
6 Office Box 6526, Tallahassee, Florida 32314, appearing on
7 behalf of City Gas Company of Florida (City Gas).

8 NORMAN H. HORTON, JR., Messer, Caparello, & Self 215
9 South Monroe Street, Post Office Box 1876, Tallahassee, Florida
10 32302-1876, appearing on behalf of Florida Public Utilities
11 Company (FPU), Sebring Gas System, Inc. (Sebring), South
12 Florida Natural Gas (SFNG).

13 ANSLEY WATSON, Macfarlane, Ferguson & McMullen, 2300
14 Park Tower, 400 North Tampa Street, Tampa, Florida 33602,
15 appearing on behalf of Peoples Gas System, Inc., (Peoples).

16 ROBERT D. VANDIVER, Associate Public Counsel, Office
17 of Public Counsel, c/o The Florida Legislature, 111 West
18 Madison Street, Room 812, Tallahassee, Florida 32399-1400,
19 appearing on behalf of the Citizens of the State of Florida
20 (OPC)

21 WILLIAM COCHRAN KEATING, Florida Public Service
22 Commission, Division of Legal Services, 2540 Shumard Oak
23 Boulevard, Tallahassee, Florida 32399-0870, appearing on behalf
24 of the Commission Staff.

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P R O C E E D I N G S

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COMMISSIONER JABER: Let's go on the record.

Counsel, read the notice.

MR. KEATING: Pursuant to notice, this time and place have been set for a prehearing conference in Docket Number 010001-EI, fuel and purchased power cost-recovery clause and generating performance incentive factor; Docket Number 010002-EG, energy conservation cost-recovery clause; Docket Number 010003-GU, purchased gas adjustment, PGA true-up; and Docket Number 010004, natural gas conservation cost recovery; and Docket Number 010007-EI, environmental cost-recovery clause.

COMMISSIONER JABER: Thank you, Mr. Keating. Let's take Docket Number 03 first.

And, Mr. Schiefelbein, let's start appearances in the order that the names appear on the draft prehearing order.

MR. SCHIEFELBEIN: Good morning, Commissioner. Wayne Schiefelbein appearing on behalf of the Florida Division of Chesapeake Utilities Corporation.

MR. MELSON: Richard Melson of Hopping Green & Sams, appearing on behalf of City Gas Company of Florida.

MR. HORTON: Norman H. Horton, Jr., of Messer Caparello & Self on behalf of Florida Public Utilities Company, Sebring Gas System, and South Florida Natural Gas.

COMMISSIONER JABER: Who is Brian Powers?

1 MR. KEATING: Mr. Powers is with Indiantown Gas.

2 COMMISSIONER JABER: Is he here? Did Indiantown ask
3 to be excused from the prehearing conference?

4 MR. KEATING: Not that I'm aware of. I believe
5 St. Joe's representative asked to be excused from the
6 prehearing conference.

7 COMMISSIONER JABER: Okay. Well, show that
8 Mr. Powers is not at the prehearing conference. And call
9 Mr. Powers and let him know that that is a request he has to
10 make of the prehearing officer in the future. Mr. Costa.

11 MR. WATSON: Mr. Costa is not here. I'm Ansley
12 Watson, Jr., of Macfarlane, Ferguson and McMullen, appearing
13 for Peoples Gas System.

14 COMMISSIONER JABER: Thank you, Mr. Watson.

15 St. Joe did ask to be excused, and we have done that.
16 We have allowed that to occur. I have a letter dated October
17 18th, staff, that I was unaware of wherein Indiantown Gas
18 Company asked to be excused from attending the prehearing
19 conference. Let the record reflect that that request has been
20 granted, and my apologies to Mr. Powers for making the
21 statement I made earlier.

22 MR. KEATING: And my apologies. I was unaware of the
23 letter myself.

24 COMMISSIONER JABER: Rob.

25 MR. VANDIVER: Robert Vandiver appearing on behalf of

1 the Citizens of the State of Florida.

2 COMMISSIONER JABER: Any other parties before we get
3 to staff?

4 MR. KEATING: Cochran Keating appearing on behalf of
5 Commission staff.

6 COMMISSIONER JABER: Okay. Mr. Keating, I don't
7 think on this one there is a need to go issue-by-issue. Are
8 there preliminary matters and things you need to bring to my
9 attention related to this draft?

10 MR. KEATING: I don't believe that there are any
11 preliminary matters unrelated to the draft prehearing order.
12 Staff does have a change in its position with respect to
13 Peoples Gas Company on Issue 4, which is at Page 10 of the
14 draft prehearing order. We would change our position from no
15 position pending resolution of Issue 6 to 98.473 cents per
16 therm. I think we have recently found that the resolution of
17 Issue 6 is not necessarily going to impact our position on
18 Issue 4.

19 COMMISSIONER JABER: Okay. With that change is there
20 a possible stipulation on the entire issue?

21 MR. KEATING: It appears that staff and the companies
22 are in agreement with the positions on Issues 1, 2, 3, 4 and 5.
23 Issue 6 it appears is the only issue that could not be shown as
24 a stipulated issue. And, again, this is -- the company and
25 staff have agreement. Public Counsel has taken no position, I

1 believe, on Issues 1 through 4. I believe their position is
2 consistent on Issue 5. So with respect to Issues 1 through 4,
3 I would ask if Public Counsel has --

4 COMMISSIONER JABER: Mr. Vandiver, we are going to
5 show that as a possible stipulation without OPC taking a
6 position.

7 MR. VANDIVER: Absolutely.

8 COMMISSIONER JABER: Parties are in agreement. There
9 is a stipulation on Issues 1 through 4, and 5, and no
10 stipulation on 6. Anything else?

11 MR. WATSON: Yes. Peoples wants to change its
12 position on Issue 6. We will get close to where the staff is.
13 I'm going to read this into the record and then I will leave it
14 with Mr. Keating.

15 Peoples' position on Issue 6 should be, "Yes, but
16 only for purchased gas adjustment cost-recovery periods through
17 2000. Commencing with the 2001 cost-recovery period, any GRI
18 voluntary funding expense should be recorded in nonfuel O&M
19 expenses for possible future recovery in a base rate
20 proceeding."

21 COMMISSIONER JABER: Okay. Staff, that brings it
22 closer.

23 MR. KEATING: That does.

24 COMMISSIONER JABER: Why don't we do this. This is a
25 draft prehearing order, if in the next day or so there is more

1 room to cover, you all get together informally and talk about
2 it. If there is a stipulation that results from your informal
3 discussions, you have my permission to change the prehearing
4 order as it relates to Issue 6, and it will be issued with the
5 change.

6 MR. KEATING: We will do that and we will also make
7 sure Public Counsel is involved in the discussion as they have
8 taken a position on the issue, as well.

9 COMMISSIONER JABER: Always.

10 MR. WATSON: Madam Chairman, there are some minor
11 typographical errors in here that relates to Peoples, and I
12 assume I should take those up off the record with Mr. Keating.

13 COMMISSIONER JABER: We would really appreciate that.

14 MR. KEATING: And let me say with respect to Peoples'
15 new position on Issue 6, I think we agree in principle, we
16 would just need to get the language, the exact language agreed
17 to.

18 COMMISSIONER JABER: Mr. Vandiver, I didn't intend to
19 leave you out. So the same direction would be for Public
20 Counsel. If you have changes in light of the new language,
21 just get with staff.

22 MR. VANDIVER: And we are continuing to talk with Mr.
23 Watson.

24 COMMISSIONER JABER: Okay. Good.

25 MR. MELSON: Commissioner Jaber.

1 COMMISSIONER JABER: Yes.

2 MR. MELSON: With regard to the list of issues, or
3 list of witnesses on Page 6, Mr. Thomas Kaufman is listed as
4 the second witness. He is also adopting the testimony of
5 Mr. Tom Smith. If we could indicate that, I would appreciate
6 it.

7 COMMISSIONER JABER: It's Thomas Kaufman adopting the
8 testimony of --

9 MR. MELSON: Thomas Smith. He actually has -- they
10 both filed testimony in the docket, Mr. Kaufman adopted Mr.
11 Smith's earlier testimony.

12 COMMISSIONER JABER: Yes. Staff, we need to list
13 both witnesses with a note that Mr. Kaufman is adopting the
14 testimony of Mr. Smith. Just so you know, Staff, that is the
15 way it should be done in the future. It's easier for the
16 Commissioners' offices to pull up the testimony for the
17 hearing.

18 MR. KEATING: We will do that.

19 COMMISSIONER JABER: Any other changes, Mr. Melson?

20 MR. MELSON: No, ma'am.

21 COMMISSIONER JABER: Mr. Keating, anything else on
22 this docket?

23 MR. KEATING: It has been, I guess, somewhat typical
24 in this docket to excuse witnesses whose issues have been
25 stipulated and to identify those witnesses in the draft

1 prehearing order. I think we have done that with the language
2 at the bottom of Page 5, and then with the asterisk next to
3 witnesses' names on Page 6 indicating that if other
4 Commissioners have no questions for those witnesses, that they
5 could be excused from the hearing.

6 COMMISSIONER JABER: Right. So the witnesses who
7 next to their name there appears an asterisk, those witnesses
8 have been -- there is a stipulation that their testimony will
9 be inserted into the record without cross-examination?

10 MR. KEATING: That is correct.

11 COMMISSIONER JABER: All parties agree with that?
12 Great. That's the way we will handle it.

13 Mr. Watson, I note that there is no as asterisk next
14 to Mr. Elliot's name, but if you have a stipulation with
15 respect to Issue 6, I would imagine that you will be in
16 position of stipulating his testimony into the record.

17 MR. WATSON: Yes. And even if we don't have a
18 stipulation on Issue 6, we are going to work with Mr. Vandiver
19 to see if we can't stipulate the facts from which he would make
20 his argument and I would make mine and let the Commissioners
21 decide. So we would hope that the witness could be excused
22 then in either event.

23 COMMISSIONER JABER: Right. Reach some sort of
24 resolution on that before the prehearing order is issued. And,
25 Cochran, make whatever changes are appropriate to the

1 prehearing order.

2 MR. KEATING: And I would also point out at the
3 bottom of Page 5 in the order of witnesses section, it provides
4 a date by which witnesses would be notified, or parties would
5 be notified whether the witnesses would be excused. That
6 essentially is put there to allow us time to talk to the other
7 Commissioners and make sure that they don't have questions for
8 those witnesses. That date should be changed --

9 COMMISSIONER JABER: That would be this coming up
10 Monday?

11 MR. KEATING: -- because this Monday is a holiday.
12 In addition, it's not the 13th. I would suggest next Wednesday
13 perhaps, which is --

14 COMMISSIONER JABER: They won't be here?

15 MR. KEATING: That's correct.

16 COMMISSIONER JABER: How about -- when is the
17 hearing?

18 MR. KEATING: The hearing is Tuesday, the 20th.

19 COMMISSIONER JABER: Okay. How about the Friday,
20 next Friday?

21 MR. KEATING: Okay.

22 COMMISSIONER JABER: Anything else? Okay.

23 MR. KEATING: I would also just point out quickly
24 there is a ruling section in the draft prehearing order, and
25 that also has been, I guess, a somewhat typical practice in

1 this docket, is that even counsel representing companies whose
2 witnesses have been excused from attending the hearing could
3 also be excused.

4 COMMISSIONER JABER: And staff takes the
5 responsibility of making sure that all of the testimony is
6 inserted into the record?

7 MR. KEATING: That's what we have done, yes.

8 COMMISSIONER JABER: And you have an understanding of
9 which counsel will not be at the hearing?

10 MR. KEATING: I know that Mr. Shoaf, and now I know
11 that Mr. Powers would not be at the hearing. I assume that in
12 the past at least some of the other companies have been
13 represented at the hearing regardless of this ruling.

14 COMMISSIONER JABER: All right. I would just caution
15 the parties, I will be flexible in allowing parties to be
16 excused, counsel to be excused from the hearing, and that puts
17 an additional responsibility on staff to make sure that the
18 testimony is inserted into the record. Govern yourselves
19 accordingly. If anyone's testimony is not inserted into the
20 record it will not be staff's problem, it will be your problem.
21 So, with that, you know, we will be flexible and allow the
22 counsel to be excused from the hearing, but I don't want
23 pointing fingers later.

24 MR. MELSON: Commissioner Jaber.

25 COMMISSIONER JABER: Yes.

1 MR. MELSON: Is it your expectation that the dockets
2 will be heard in the order that you are taking them this
3 morning?

4 COMMISSIONER JABER: Well, let's talk about that.
5 What is the most efficient way of handling it? I sort of went
6 through the draft prehearing orders and looked at where I
7 thought there would be most agreement and handled it that way
8 for this morning. Does that work for you all at the hearing?

9 MR. WATSON: It certainly works for me.

10 COMMISSIONER JABER: Well, let me tell you, the fuel
11 hearing, of course, the 01 docket will take the most time, and
12 I think it's clear that that one should be saved for last.

13 So, Staff, what do you think?

14 MR. KEATING: Well, I think when we take 03 and 04
15 first, we take care of all the gas companies, and they don't
16 have to spend any more time here waiting for the other dockets.
17 And then continuing with 02, 07, 01, those have typically gone
18 in the order of increasing duration of hearing time.

19 COMMISSIONER JABER: All right. Well, work with the
20 Chairman's office, and you can represent to the Chairman's
21 office that my recommendation would be to handle it in this
22 order. That works?

23 MR. WATSON: Commissioner Jaber, I can tell you, and
24 Mr. Vandiver can disagree, if he disagrees, but I think we have
25 already taken probably two or three times as much time as we

1 will take combined even if we are not able to stipulate on
2 Issue 6 than we will take at the hearing.

3 COMMISSIONER JABER: I would agree with you. Okay.
4 Anything else in this docket? All right. Let's go to the next
5 docket.

6 (Hearing concluded at 1:35 p.m.)

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1 STATE OF FLORIDA)
2 : CERTIFICATE OF REPORTER
3 COUNTY OF LEON)

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5 I, JANE FAUROT, RPR, Chief, Office of Hearing Reporter
6 Services, FPSC Division of Commission Clerk and Administrative
7 Services, do hereby certify that the foregoing proceeding was
8 heard at the time and place herein stated.

9 IT IS FURTHER CERTIFIED that I stenographically
10 reported the said proceedings; that the same has been
11 transcribed under my direct supervision; and that this
12 transcript constitutes a true transcription of my notes of said
13 proceedings.

14 I FURTHER CERTIFY that I am not a relative, employee,
15 attorney or counsel of any of the parties, nor am I a relative
16 or employee of any of the parties' attorney or counsel
17 connected with the action, nor am I financially interested in
18 the action.

19 DATED THIS 13TH DAY OF NOVEMBER, 2001.

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JANE FAUROT, RPR
Chief, Office of Hearing Reporter Services
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(850) 413-6732