

BEFORE THE PUBLIC SERVICE COMMISSION

In re: Petition for approval of special contract
with Pasco Cogen, Ltd. by Peoples Gas
System.

DOCKET NO. 040259-GU
ORDER NO. PSC-04-0579-TRF-GU
ISSUED: June 8, 2004

The following Commissioners participated in the disposition of this matter:

BRAULIO L. BAEZ, Chairman
J. TERRY DEASON
LILA A. JABER
RUDOLPH "RUDY" BRADLEY
CHARLES M. DAVIDSON

ORDER APPROVING SPECIAL CONTRACT

BY THE COMMISSION:

Peoples Gas System ("Peoples" or "the Company") and Pasco Cogen, Ltd. ("Pasco Cogen") are parties to an Amended and Restated Gas Transportation Agreement dated February 15, 1993 ("Agreement"). Pasco Cogen burns the gas it receives under the Agreement to operate combustion turbines and a steam turbine generator for production of electricity which it sells to Progress Energy Florida, Inc. ("Progress Energy") pursuant to a negotiated power purchase agreement approved by this Commission. The power purchase agreement initially was set to expire on June 30, 2013, but now is set to expire on December 31, 2008, pursuant to a contract amendment approved by this Commission in 1997.

Under the current Agreement, Peoples provides transportation service for Pasco Cogen at the transportation rate set forth in Peoples' Rate Schedule Interruptible Service Large Volume (ISLV), which is available to interruptible customers who consume 50 million therms or more per year. At the time the parties entered into the Agreement, Peoples transported approximately 70 million therms annually to Pasco Cogen's cogeneration facility. Changes in the operation of Pasco Cogen's facility have caused a reduction in the demand for gas. Currently, consumption at the facility is slightly less than the 50 million therms annually required for Pasco Cogen to qualify for Rate Schedule ISLV.

Several factors have caused the quantities of gas used and expected to be used in the future by Pasco Cogen to decrease below Rate Schedule ISLV's 50 million therm threshold. Progress Energy's curtailment plan permits it to curtail deliveries of energy by Pasco Cogen and other cogenerators when the demand for electricity on the Progress Energy system is low. The power purchase agreement also provides that Pasco Cogen receives firm energy payments only during the on-peak hours identified in that agreement. During all other hours, Pasco Cogen is paid Progress Energy's "as available" energy cost for electric energy delivered to the utility. At

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most times, the “as available” rate does not cover Pasco Cogen’s delivered cost of gas, and it is often forced to shut down at least one of its gas turbine generators in order to maintain economical operation of its cogeneration facility. Finally, the citrus processing plant that takes thermal energy from Pasco Cogen in the form of steam stopped operating its evaporators used to produce citrus concentrate, resulting in a decrease in its demands for steam from Pasco Cogen.

As a result of Pasco Cogen’s decrease in annual consumption, Peoples and Pasco Cogen entered into a Second Amended and Restated Gas Transportation Agreement (“special contract”). On March 24, 2004, Peoples filed a petition for approval of the special contract.

In its petition, Peoples states that the special contract will preserve the minimum revenue stream contemplated by both Peoples and Pasco Cogen at the time Pasco Cogen initially contracted for transportation service. According to Peoples, Pasco Cogen’s consumption of 70 million therms provided non-fuel revenue of approximately \$763,000 annually at the former ISLV rate of \$0.0109 per therm. Under the proposed tiered rate levels of consumption in the special contract, which have been granted confidential classification, the rates are designed to preserve this revenue stream for the benefit of Peoples and its ratepayers, while providing Pasco Cogen with certainty regarding its rate at each level of consumption. Peoples states that this will also provide Pasco Cogen with flexibility in operating its facility to meet other possible changes in circumstances over which it has no direct control.

In its petition, Peoples states that the reduction in quantities of gas to be taken by Pasco Cogen was not known or anticipated when Peoples filed its most recent rate case. According to Peoples, Pasco Cogen’s annual consumption did not drop below 50 million therms until December 2002, the month of the final hearing in Peoples’ most recent rate case (Docket No. 030923-GU). Further, Peoples states that applying the full Interruptible Service (IS) rate of \$0.03522 per therm could adversely affect Pasco Cogen and Peoples’ other ratepayers. The higher rate could cause Pasco Cogen to run its facility even less in off-peak hours, which could contribute to the closure of the facility. Reduction in usage or closure of the facility would contribute to loss of revenues, which could force Peoples into filing for a rate increase. Peoples states that had it known at the time it filed its rate case that Pasco Cogen’s consumption would be reduced in the immediate future, it would have included in its rate filing a request for approval of a special contract similar to the one it now proposes for our approval.

We find that the proposed tiered rate levels of consumption in the special contract are reasonable because they will preserve the revenue stream for the benefit of Peoples and its ratepayers while providing Pasco Cogen flexibility in the operation of its facility. Accordingly, we approve the special contract. The special contract shall become effective on May 18, 2004, the date of our vote on this matter.

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Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that Peoples Gas System's petition for approval of a special contract with Pasco Cogen, Ltd. is hereby granted. It is further

ORDERED that the special contract shall become effective on May 18, 2004, the date of our vote in this matter. It is further


ORDERED that if a protest is filed within 21 days of issuance of this Order, the special contract shall remain in effect with any charges held subject to refund 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.

By ORDER of the Florida Public Service Commission this 8th day of June, 2004.

BLANCA S. BAYÓ, Director
Division of the Commission Clerk
and Administrative Services

By:



Kay Flynn, Chief
Bureau of Records

(SEAL)

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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 special contract 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 the Commission Clerk and Administrative Services, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on June 29, 2004.

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.