

BEFORE THE PUBLIC SERVICE COMMISSION

In re: Purchased gas adjustment (PGA) true-up. | DOCKET NO. 040003-GU
ORDER NO. PSC-04-1088-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:

GARY V. PERKO, ESQUIRE, Hopping Green & Sams, P.A., P.O. Box 6526,
Tallahassee, Florida 32314
On behalf of City Gas Company of Florida (City Gas).

NORMAN H. HORTON, JR., ESQUIRE, Messer, Caparello & Self, P.A., Suite
701, Sun Trust Bank Building, P. O. Box 1876, Tallahassee, Florida, 32302-1876
On behalf of Florida Public Utilities Company (FPUC).

PATRICIA A. CHRISTENSEN, ESQUIRE, Associate Public Counsel, Office of
Public Counsel, c/o The Florida Legislature, 111 West Madison Street, Room
812, Tallahassee, Florida 32399-1400
On behalf of the Citizens of the State of Florida (OPC).

KATHERINE E. FLEMING, 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.

II. CASE BACKGROUND

As part of the Commission's continuing purchased gas adjustment true-up proceedings, an administrative hearing in this docket is set for November 8-10, 2004. The parties have reached agreement concerning all issues identified for resolution at this hearing. Staff is

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prepared to present the panel with a recommendation at the hearing for approval of the stipulated positions set forth herein. The Commission has the option to 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, including Chapter 366.04, 366.05, and 366.06, 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, as to whether any such witness 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>		
*Thomas Kaufmann	City Gas	1 – 6
*Cheryl M. Martin	FPUC	1 – 5
*Marc L. Schneidermann	FPUC	4
*W. Edward Elliott	PGS	1 – 5
*Stuart L. Shoaf	SJNG	1 – 5

VIII. BASIC POSITIONS

CITY GAS: City Gas has appropriately calculated its true-up amounts and purchased gas adjustment factor as shown in the Company's positions on Issues 1-5.

FPUC: FPUC has properly projected its true-up amounts and projected gas costs. Its costs and projections are reasonable and its purchased gas cost recovery factors should be approved by the Commission.

PGS: The Commission should approve PGS's final PGA true up amount of \$7,268,762 (underrecovery) for the period January 2003 through December 2003; its estimated PGA true-up amount of \$10,448,229 (overrecovery) for the period January - December 2004; and its levelized PGA (cap) factor of \$0.99037 per therm for the period January 1 through December 31, 2005.

SJNG: The appropriate over (under) recovery amounts and purchased gas adjustment factors are shown in the company's positions on Issues 1-5.

OPC: None at this time.

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.

IX. ISSUES AND POSITIONS

Generic Purchase Gas Adjustment Issues

STIPULATED

ISSUE 1: What are the appropriate final purchased gas adjustment true-up amounts for the period January 2003 through December 2003?

POSITIONS:

City Gas Company of Florida	\$1,313,819	Overrecovery
Florida Public Utilities	\$338,902	Overrecovery
Peoples Gas System, Inc.	\$7,268,762	Underrecovery
St. Joe Natural Gas Company	\$40,749	Overrecovery

OPC: No position.

STIPULATED

ISSUE 2: What are the estimated purchased gas adjustment true-up amounts for the period January 2004 through December 2004?

POSITIONS:

City Gas Company of Florida	\$1,873,845	Overrecovery
Florida Public Utilities	\$3,165	Underrecovery
Peoples Gas System, Inc.	\$10,448,229	Overrecovery
St. Joe Natural Gas Company	\$45,220	Overrecovery

OPC: No position.

STIPULATED

ISSUE 3: What are the total purchased gas adjustment true-up amounts to be collected during the period January 2005 through December 2005?

POSITIONS:

City Gas Company of Florida	\$3,187,664	Overrecovery
Florida Public Utilities	\$335,737	Overrecovery
Peoples Gas System, Inc.	\$3,179,465	Overrecovery
St. Joe Natural Gas Company	\$85,969	Overrecovery

OPC: No position.

STIPULATED

ISSUE 4: What are the appropriate levelized purchased gas cost recovery (cap) factors for the period January 2005 through December 2005?

POSITIONS:

City Gas Company of Florida	94.952 cents per therm
Florida Public Utilities	89.181 cents per therm
Peoples Gas System, Inc.	99.037 cents per therm
St. Joe Natural Gas Company	76.500 cents per therm

OPC: No position.

STIPULATED

ISSUE 5: What should be the effective date of the new purchased gas adjustment charge for billing purposes?

POSITION: The factor should be effective for all meter readings on or after January 1, 2005, beginning with the first or applicable billing cycle for the period January 2005 through December 2005.

OPC: No position.

Company-Specific Purchased Gas Adjustment Issues

CITY GAS

STIPULATED

ISSUE 6: Should an adjustment be made to City Gas Company of Florida's True-up for gas sales and purchases made during the period 1997-2003?

POSITION: Yes. Based on staff's audit report, City Gas Company of Florida's True-up refund for the projected period of January through December 2005 should be increased by \$2,683,344 plus \$209,997 in interest, which has the effect of reducing the factor by \$0.06822. This adjustment is based upon a staff audit report pertaining to transactions involving off-system sales and purchases during the time period covering the fiscal year ending September 30, 1997 through the fiscal year ending September 30, 2003. Accordingly, these transactions are appropriately accounted for and no future adjustments or investigations relating to these transactions will be necessary.

X. EXHIBIT LIST

<u>Witness</u>	<u>Proffered By</u>	<u>I.D. No.</u>	<u>Description</u>
<u>Direct</u>			
Thomas Kaufmann	City Gas	<u>TK-1</u>	Final Fuel Over/Under Recovery
Thomas Kaufmann	City Gas	<u>TK-2</u>	Schedules E-1 Winter, E-1, E-1/R, E-2, E-3, E-4, E-5

<u>Witness</u>	<u>Proffered By</u>	<u>I.D. No.</u>	<u>Description</u>
Cheryl M. Martin	FPUC	<u>CM-1</u>	Schedule A-7
Cheryl M. Martin	FPUC	<u>CMM-1</u>	Composite. Schedules E-1, E-1/R, E-2, E-3, E-4, E-5
W. Edward Elliott	PGS	<u>EE-1</u>	Calculation of final true-up for January 2003 – December 2003 (Schedule A-7)
W. Edward Elliott	PGS	<u>EE-2</u>	Calculation of estimated true-up for January 2004 – December 2004; total true-up for January 2005 – December 2005; Calculation of PGA factor for January 2005 – December 2005 (Schedules E-1 through E-5)
Stuart L. Shoaf	SJNG	<u>SLS-1</u>	Final True-Up for the Period January 2003 through December 2003
Stuart L. Shoaf	SJNG	<u>SLS-2</u>	PGA Summary of estimates for the projected period.
Stuart L. Shoaf	SJNG	<u>SLS-3</u>	Calculation of true-up amount current period (8 months actual, 4 months estimated)
Stuart L. Shoaf	SJNG	<u>SLS-4</u>	Transportation purchases system supply and end use for the projected period.
Stuart L. Shoaf	SJNG	<u>SLS-5</u>	Calculation of the true-up amount for the projected period based on the prior period and current period (8 months actual, 4 months estimated)

<u>Witness</u>	<u>Proffered By</u>	<u>I.D. No.</u>	<u>Description</u>
Stuart L. Shoaf	SJNG	<u>SLS-6</u>	Therm Sales and Customer Data (For the projected period)
Stuart L. Shoaf	SJNG	<u>SLS-7</u>	Reprojected PGA for Current Period (8 months actual, 4 months estimated)

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

XI. PROPOSED STIPULATIONS

There are proposed stipulations on all issues, noting that OPC has taken no position on Issues 1-5 and agrees with the position on Issue 6.

XII. PENDING MOTIONS

There are no pending motions at this time.

XIII. PENDING CONFIDENTIALITY MATTERS

Staff is aware of one pending confidentiality request: Document No. 10225-04.

XIV. RULINGS

Opening statements, if any, shall not exceed ten minutes per party.

St. Joe Natural Gas Company's request to be excused from the prehearing conference and hearing in this docket is granted.

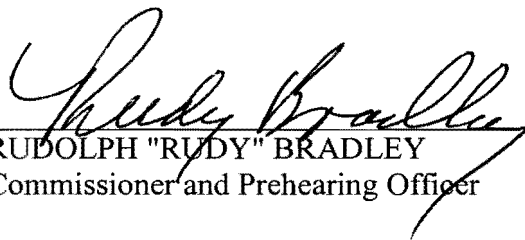
Peoples Gas System has been excused from the prehearing conference in this docket.

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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.


RUBOLPH "RUDY" BRADLEY
Commissioner and Prehearing Officer

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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

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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.