REDACTED

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Petition for Approval of Recognition of a Regulatory Asset by Florida City Gas	Docket No.:
	Filed: March 12, 2008

PETITION FOR APPROVAL OF RECOGNITION OF A REGULATORY ASSET

Florida City Gas ("Petitioner," "FCG," or "the Company") hereby petitions the Commission for authorization to use deferral accounting and to create a regulatory asset under the provisions of Statement of Financial Accounting Standard No. 71, *Accounting for the Effects of Certain Types of Regulation* ("SFAS 71") to record certain charges incurred by the Company due to union decertification by FCG union employees. Specifically, these charges relate to the Company's requirement by federal law to fully fund FCG's estimated portion of the under funded union pension liability. Florida City Gas is a division of Pivotal Utility Holdings, Inc. ("PUHI"), which became a wholly owned subsidiary of AGL Resources ("AGLR") when AGLR merged with NUI Corporation on November 30, 2004. FCG is not requesting any rate adjustment at this time.

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OTH ____

As the basis for the request, Petitioner would show:

1. The exact name and address of the principal business office of the Petitioner is:

Florida City Gas
955 East 25th Street
Hialeah, Florida 33013-3498

2. Notices and communications with respect to this Petition and docket should be directed addressed to:

Beth Keating Akerman Senterfitt 106 East College Avenue Suite 1200P.O. Box 1877 (32302-1877) Tallahassee, Florida 32301	Elizabeth Wade Ten Peachtree Place Atlanta, Georgia 30309

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Melvin Williams Florida City Gas 4180 U.S. Highway 1 Rockledge, Florida 32955	

3. On February 15, 2008, FCG's unionized employees voted to decertify from the Teamsters union, and this vote was certified by the National Labor Relations Board on February 29, 2008. As a result of this decertification, the Company is under a legal obligation to pay its allocated portion of the under funded pension liability ("liability") due to the withdrawal of union employees who had been covered under the union pension plan. The estimated liability is [redacted] The Company proposes to establish a regulatory asset to expense this liability over 15 years, which will equate to approximately [redacted] year.

4. Prior to the decertification, these employees had participated in the Central States Pension Southeast and Southwest Areas Plan ("Plan"), a third-party, multiemployer plan (a multiemployer plan is one in which more than one employer is required to contribute and is maintained pursuant to one or more collective bargaining agreements). This Plan is severely under funded and is subject to government scrutiny. As a result of the decertification, these covered FCG employees have now ceased participating in the Plan, and the Company is under a legal obligation to pay the liability to cover its portion of the under funding.

5. Prior to decertification, the Company contributed approximately $80,000 annually to the Plan. Historically, annual contributions to the plan have been recovered through base rates as a component of the Company's cost of service. Annual contributions to the plan are negotiated with each new collective bargaining agreement. Therefore, if the employees had remained in the union and continued to participate in the Plan, the under

funded portion of the liability would have been a recoverable expense over time in the Company's base rates.

6. While the payment of the under funded portion of the liability will pose a cost to the Company, it is important to recognize that there were also significant costs (and uncertainties) to the Company associated with continued participation in the Plan – both immediate and potentially long term. .

7. The estimated under funded portion of the liability is based on the status of the pension contributions and an assumed withdrawal in 2007. Because the actual figures for the under funded portion of the liability (for a 2008 withdrawal) are currently not available, the Company's analysis is based on the estimated liability it would have incurred if it had withdrawn from the Plan in 2007.

8. Based on available, actual 2006 numbers, the estimated liability for 2007 would be approximately [redacted] This amount could be paid through one of two methods:

- Lump sum payment of the entire [redacted] or
- Annual payments for up to 20 years, including interest on the unpaid balance at a rate of 8% per year (based on the estimated annual rate of return of the pension plan).

The actual numbers and corresponding liability should be available by late 2008, when the valuation of the plan as of December 31, 2007, is complete. Payments made toward this liability will be tax-deductible as pension contributions.

9. Additionally, it should be noted that this liability is a one-time, set cost. Once the under funded portion of the liability is determined, only in very unusual circumstances (basically, a mass withdrawal by virtually all contributing employers) could it be adjusted by

Central States. By contrast, should FCG's employees have continued to participate in the Plan, the Company would still incur increasing costs for both current and future periods.

10. Pursuant to the terms of the Collective Bargaining Agreement that had been in effect prior to the recent decertification, the Company was under an obligation to contribute $30 per employee per week ($1,560 per year) to the Plan, or just over $80,000 per year. In addition to these costs, the Company believes the Teamsters would have attempted to negotiate for higher contributions, as they did during the last negotiations in 2005. Moreover, the Company believes that Central States (via the Plan administrator), would have placed additional financial requirements on its continued participation (which would be non-negotiable):

- Central States has already announced that it will require each participating employer to increase its contributions by at least 8% for each year the Plan remains in place. This would, in effect, increase the annual contribution rate by approximately $20,000 after 3 years.
- FCG expects Central States to require even greater increases for contracts renewing in future years.
- If the Plan's state of under funding were to worsen, FCG may have been required by law to contribute an additional surcharge of at least 5% of the amount of contributions required by the contract.

11. In short, we expect that the annual pension cost would have increased to a minimum of $100,000 annually during the next collective bargaining agreement term, and there is a significant risk that this figure could go higher. There is nothing the Company could have done to limit or mitigate that risk had its employees remained in the Plan, and the Company has historically been allowed and would have continued to seek recovery of these increasing costs as a component of its cost of service. Additionally, there is a significant chance that the liability would have increased if the Company had stayed in the Plan and

attempted to exit at a later date. Historically, the liability has increased significantly (for example, had FCG withdrawn in 2004, it would have resulted in an estimated liability of approximately $1,668,846.44), despite strong returns in the market in the interim.

12. While decertification from the union will result in the acceleration of pension costs, there are also a number of benefits that will be realized by the Company. These benefits are both financial and operational.

13. Under the previous union contract, union workers contractually could only perform specific functions, and those functions could not be performed by non union employees. Typically, any function dealing with the customer's meter would have previously been performed exclusively by union employees, except for those instances in which safety was involved. This resulted in higher overtime because both a union and non union employee had to be available for after hour emergency calls. Additionally, each call that required an after hour visit resulted in a minimum of four hour's pay for union employees, and most after hour emergency calls require less than four hours of work.

14. Depending on the nature of a service call, a non union and union employee could both be required to perform work at the same premise. As an example, if a non union employee responded to a service call for a gas leak, the non-union employee could turn off the gas in the performance of investigating the leak. He could not, however, turn the customer's gas back on. A union employee would be called to complete the service order for the turn on.

15. The estimated financial benefits from overtime reduction, operational efficiencies and realignment of work in 2008 are [redacted].

16. Additional operational efficiencies and improved customer service include the following:

- Improved service to customers by offering more 4 hour appointment windows, same day or next day service, late afternoon and weekend appointments.
- Broader coverage in FCG's territory which will enable FCG to respond faster to leaks and other emergencies.
- Lower Can't Get Ins ("CGIs") on compliance work because customers are not home and a reduction in repeat visits to the same premise.
- Improved service to large industrial customers with the ability to coordinate the work between the Pressure Control Operator and the Measurement tech to provide assistance and support for the installation of industrial meters.
- Ability to use field staff from other service centers for compliance work, high demand and assist with special projects.
- Ability to contract out short term work load increases and special projects.

17. Finally, it is also worth noting that other companies are taking action to withdraw from the Central States Pension Plan, out of fear of rising costs and uncertain expenses long-term. For example, UPS recently has reached an agreement to withdraw from the Plan for a cost of approximately $6 billion which would occur next July pending approval by the union. UPS employees currently make up nearly one third of the active participants in the Central States Pension Plan.

18. It is not possible to predict the impact that these withdrawals will have on the Plan's under funding status over the long term given the myriad of factors that drive these pension costs liability. However, the fact that such a large contributor is withdrawing from the Plan highlights the fact that the Plan's funding status and FCG's future contribution requirements are completely outside of the Company's control. Moreover, it demonstrates that other companies are willing to pay a substantial amount to avoid these same uncertainties.

19. FCG believes the union decertification is in the best interest of both its customers and employees. Amortization of the liability payment of approximately [redacted]

per year will be offset by financial benefits of approximately [redacted] Moreover, FCG believes that its customers will also benefit from the operational benefits and efficiencies that will be gained as the result of the decertification.

20. Exhibit A describes the journal entries that would be recorded at the time payment was made for the liability and the subsequent amortization of the regulatory asset requested herein.

WHEREFORE, for the reasons cited, FCG requests that the Commission grant the requested relief.

Dated this 12th day of March, 2008.

By: Beth Keating

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