

Ruth Nettles

From: Ansley Watson, JR. [AW@macfar.com]
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To: Filings@psc.state.fl.us
Cc: Doc Horton; Keino Young; Binswanger, Lewis M.; Floyd, Kandi M.; Wall, Rick F.; Bruce Narzissenfeld
Subject: Docket No. 080318-GU
Attachments: 080642 - PGS reply to FPUC motion.pdf

- a. Ansley Watson, Jr.
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- b. Docket No. 080642-GU – Petition of Florida Public Utilities Company to resolve a territorial dispute with Peoples Gas System
- c. Peoples Gas System
- d. Two (2) pages
- e. The attached document is Peoples' Reply to FPUC's Motion for Emergency Order Staying Construction.

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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition of Florida Public Utilities : Docket No. 080642-GU
Company to resolve a territorial dispute :
with Peoples Gas System. : Submitted for filing:
_____ : 5-11-09

**PEOPLES' REPLY TO FPUC'S MOTION FOR
EMERGENCY ORDER STAYING CONSTRUCTION**

Peoples Gas System ("Peoples"), by and through undersigned counsel, replies to the Motion for Emergency Order Staying Construction filed in this docket by Florida Public Utilities Company ("FPUC"), and says:

1. FPUC's Motion for Emergency Order Staying Construction (the "Motion") seeks relief which the Commission has no statutory authority to grant, and must be denied. There is no provision in either of Chapters 366 or 350, *Florida Statutes*, authorizing the Commission to issue an order such as that sought by the Motion. Indeed, no such authority is cited in the Motion. The relief sought by the Motion is in the nature of a prohibitive injunction, and the appropriate forum for such relief is in a circuit court of the State of Florida.

2. *Even if* the Commission possessed the statutory authority to grant the relief sought by the Motion, the Motion contains no allegations which would support the Commission's issuance of the "emergency order" sought by the Motion. The Motion's unsworn allegation of irreparable harm is a conclusion unsupported by the facts, and no facts are set forth in the Motion which would establish irreparable harm to FPUC. FPUC has no natural gas facilities which would be duplicated by the Peoples construction referenced in the Motion. Indeed, (a) FPUC has no natural gas customers within 20 miles of such construction, while the construction referenced in the Motion, when

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conducted, will be within one mile of an existing Peoples gate station and natural gas distribution system, and (b) the construction, when conducted, will be in an area lying east of the Florida Turnpike – an area which (as Peoples reads FPUC’s vague allegations with respect to what constitutes the “disputed area”) – is not even in dispute. Peoples will suffer economic detriment in the event construction was stayed in an area that, according to the Amended Petition in this docket, is not even alleged to be in dispute.

3. There being no legal or factual basis set forth in the Motion which would support the relief requested, and the Commission in any event having no statutory authority to provide the relief requested, Peoples respectfully requests that the Motion be summarily denied.

Respectfully submitted,



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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true copy of Peoples’ Reply to FPUC’s Motion for Emergency Order Staying Construction has been furnished by electronic and regular U.S. Mail to Norman H. Horton, Jr., Esquire, Messer, Caparello & Self, P.A., P. O. Box 15579, Tallahassee, Florida 32317, and Keino Young, Esquire, Office of General Counsel, Florida Public Service Commission, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, this 11th day of May, 2009.



Ansley Watson, Jr.