

BEFORE THE PUBLIC SERVICE COMMISSION

In re: Petition for rate increase by
Florida Public Utilities Company.

Docket No.: 080366-GU

Filed: June 17, 2009

PETITION PROTESTING PORTIONS OF THE PROPOSED AGENCY ACTION

The Citizens of the State of Florida (Citizens), by and through undersigned counsel, pursuant to Section 120.57, Florida Statutes, and Rules 25-22.029 and 28-106.201, Florida Administrative Code, file this protest to the Florida Public Service Commission's (Commission) Order No. PSC-09-0375-PAA-GU, issued May 27, 2009. In that Order, the Commission approved, in part, a gas rate increase for Florida Public Utilities Company (FPUC or Company) and requiring additional filings and holding revenues subject to refund in the event FPUC's planned merger is consummated. In support of their Petition, Citizens state as follows:

1. The name and address of the agency affected and the agency's file number:

Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850
Docket No.: 080366-GU

2. The Citizens include the customers of FPUC whose substantial interests will be affected by the Order because the Order authorizes FPUC to collect from its customers the proposed rate increase.

3. Pursuant to Section 350.11, Florida Statutes, the Citizens who file this Petition are represented by the Office of Public Counsel ("Citizens" or "OPC") with the following address and telephone number:

Office of Public Counsel c/o The Florida Legislature
111 West Madison Street, Room 812
Tallahassee, Florida 32399-1400
Telephone No. : (850) 488-9330

4. The Citizens obtained a copy of the Order from the Commission's website on May 28, 2009, the day after the Order was posted to the website.

5. At this time the disputed issues of material facts, including a concise statement of the ultimate facts alleged and those facts which Citizens contend warrant reversal and/or modification of the agency's proposed action are discussed below. Citizens contend that the rate base, the net operating income (NOI), and the revenue requirement approved in Order No. PSC-09-0375-PAA-GU are overstated. Since the rate base, NOI, and revenue requirement are overstated, this results in rates that are unfair, unjust, and unreasonable. Pursuant to Section 366.06(1), Florida Statutes, the Commission shall have the authority to determine and fix fair, just, and reasonable rates. Adjustments should be made to rate base, NOI, and revenue requirement to make the rates fair, just, and reasonable for the customers of FPUC.

Citizens believe that the revenue requirement approved in Order PSC-09-0375-PAA-GU is overstated, in part, due to the current effects of the potential merger. Those effects which are currently impacting FPUC's 2009 operations have not been identified and accounted for in the 2009 projected test year. Pursuant to Section 366.06(1), Florida Statutes, the Commission shall have the authority to determine and fix fair, just, and reasonable rates. Thus, Citizens believe that additional adjustments are required.

Citizens protest the following specific rate base, NOI, and revenue requirement areas which are subject to dispute as issues are listed below. Further, Citizens protest any other issues that may be identified later based on the impact of the potential merger and any fallout issues. Attached to this Petition is a tentative issues list identified by Citizens.

A. Rate Base

- Area Expansion Program (AEP) deficiency proposed by FPUC
- Projected plant additions for 2008 and 2009
- Accumulated depreciation
- Working capital
- Any additional adjustments to rate base should be made due to the impact of the potential merger

B. Net Operating Income

- Inflation factors applied in projection of operating expenses for 2008 and 2009
- Salaries and benefits for the 2009 projected test year
- Proposed new and vacant positions
- Rate case expense for the 2009 projected test year
- Depreciation expense
- Projected expense for IRS consultant
- Landscaping and office maintenance for the projected 2009 test year
- Projected level of outside contractual services
- Proposed travel, training, conferences, and meeting fees and costs for the 2009 projected test year
- Proposed new GPS system
- Proposed research and development costs
- Projected sales and marketing expenses
- Projected membership dues
- Expenses projected for the Summer Glen conversion from propane to natural gas
- Proposed increases to Injuries and Damages expense
- Miscellaneous Office and General expenses
- Office Utility expenses
- Proposed increases to maintenance of mains expense
- Any other adjustments that should be made to net operating income due to the impact of the potential merger

C. Revenue Requirement

- Revenue requirement for the 2009 projected test year

D. Potential Merger

- Any other adjustments that should be made due to the impact of the potential merger

6. Pursuant to Section 120.80(12)(b), Florida Statutes, a Section 120.57 hearing may address only those issues in dispute, and any other issues not in dispute are deemed stipulated. Citizens are not protesting the issues in the test period, quality of service, cost of capital, or cost of service and rate design sections of Order No. PSC-09-0375-PAA-GU. However, Citizens reserve the right to take positions and file testimony on any additional issues raised by any other party's protest in this docket.

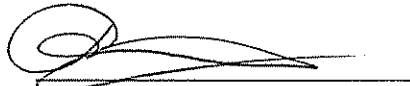
7. By Order No. PSC-09-0375-PAA-GU, protests of the Order shall be filed with the clerk of the Office of Commission Clerk no later than close of business on June 17, 2009. This Petition has been timely filed.

8. Citizens request that the Commission set the Proposed Agency Action, Order No. PSC-09-0375-PAA-GU, for hearing on FPUC's proposed rate base, net operating income, and revenue requirement.

WHEREFORE, the Citizens hereby protest and object to Commission Order No. PSC-09-0375-PAA-GU, as provided above, and petition the Commission to conduct a formal evidentiary hearing, under the provisions of Section 120.57(1), Florida Statutes.

Respectfully Submitted,

JR Kelly
Public Counsel

A handwritten signature in black ink, appearing to read 'Patricia A. Christensen', written over a horizontal line.

Patricia A. Christensen
Associate Public Counsel
Florida Bar No. 989789
Office of the Public Counsel
c/o The Florida Legislature
111 West Madison Street, Room 812
Tallahassee, Florida 32399-1400

CERTIFICATE OF SERVICE

I, **HEREBY CERTIFY** that a true and correct copy of the Office of Public Counsel's Petition Protesting Portions of the Proposed Agency Action had been furnished by electronic mail and U.S. Mail on this 17th day of June, 2009, to the following:

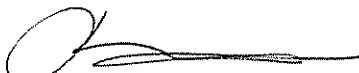
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Florida Public Utilities Company
P.O. Box 3395
West Palm Beach, FL 33402-3395



Patricia A. Christensen
Associate Public Counsel

Tentative Issues List

Rate Base

Issue 1: Whether the inclusion in rate base of the Area Expansion Program (AEP) deficiency proposed by FPUC is appropriate?

Issue 2: What are the appropriate projected plant additions for 2008 and 2009?

Issue 3: What is the appropriate amount of accumulated depreciation?

Issue 4: What is the appropriate amount of working capital?

Issue 5: Whether any additional adjustments to rate base should be made due to the impact of the potential merger?

Net Operating Income

Issue 6: Should an adjustment be made to inflation factors applied in the projection of operating expenses for 2008 and 2009?

Issue 7: Should an adjustment be made to reduce salaries and benefits for the 2009 projected test year?

Issue 8: Should an adjustment be made for FPUC's proposed new and vacant positions?

Issue 9: Should an adjustment be made to reduce rate case expense for the 2009 projected test year?

Issue 10: What is the appropriate amount of depreciation expense?

Issue 11: Should an adjustment be made to the projected expense for the IRS consultant?

Issue 12: Should an adjustment be made to reduce landscaping and office maintenance expenses for the projected 2009 test year?

Issue 13: Should an adjustment be made to the projected level of outside contractual services?

Issue 14: Should an adjustment be made to FPUC's proposed travel, training, conferences, and meeting fees and costs for the 2009 projected test year?

Issue 15: Should an adjustment be made for FPUC's proposed new GPS system?

Issue 16: Should an adjustment be made for FPUC's proposed research and development costs?

Issue 17: Should an adjustment be made to reduce sales and marketing expenses?

Issue 18: Should an adjustment be made to projected membership dues?

Issue 19: Should an adjustment be made to the expenses projected for the Summer Glen conversion from propane to natural gas?

Issue 20: Should an adjustment be made to the proposed increases to the Injuries and Damages expense?

Issue 21: Should an adjustment be made to the Miscellaneous Office and General expenses?

Issue 22: Should an adjustment be made to Office Utility Expense?

Issue 23: Should an adjustment be made to the proposed increases to the Maintenance of Mains expenses?

Issue 24: What adjustment should be made to net operating income due to the impact of the potential merger?

Revenue Requirement

Issue 25: What is the appropriate revenue requirement for the 2009 projected test year?

Other

Issue 26: What other adjustments should be made due to the impact of the potential merger?