

**Ruth Nettles**

080366-GU

**From:** Ann Bassett [abassett@lawfla.com]  
**Sent:** Tuesday, October 27, 2009 11:54 AM  
**To:** Filings@psc.state.fl.us  
**Subject:** Docket No. 080366-GU  
**Attachments:** 2009-10-27, 080366, Motion to Approve Stipulation and Settlement.pdf

The person responsible for this electronic filing is:

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The Docket No. is 080366-GU

Petition of Florida Public Utilities Company for an Increase in Rates Charged to Natural Gas Customers

This is being filed on behalf of Florida Public Utilities Company

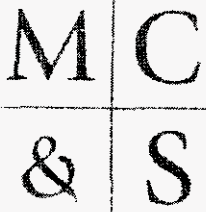
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Florida Public Utilities Company's Motion to Approve Stipulation and Settlement.

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10/27/2009

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MESSER CAPARELLO & SELF, P.A.

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October 27, 2009

**VIA ELECTRONIC FILING**

Ms. Ann Cole, Commission Clerk  
Office of Commission Clerk  
Room 110, Easley Building  
Florida Public Service Commission  
2540 Shumard Oak Blvd.  
Tallahassee, Florida 32399-0850

Re: Docket No. 080366-GU

Dear Ms. Cole:

Enclosed for filing on behalf of Florida Public Utilities Company is Florida Public Utilities Company's Motion to Approve Stipulation and Settlement in the above referenced docket.

Thank you for your assistance with this filing.

Sincerely yours,

  
Norman H. Horton, Jr.

NHH/amb  
Enclosures  
cc: Ms. Cheryl Martin  
Parties of Record

**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

In re: Petition for rate increase by )  
Florida Public Utilities Company's )  
Gas Division )  
\_\_\_\_\_ )

Docket No. 080366-GU  
Date Filed: October 27, 2009

**MOTION TO APPROVE STIPULATION AND SETTLEMENT**

COMES NOW, Florida Public Utilities Company ("FPUC") and files this Motion to Approve Stipulation and Settlement and as basis states:

1. This docket was initiated by FPUC upon a petition filed with the Commission on December 17, 2008, wherein FPUC sought approval of an increase of \$9,917,960 in its base rates and charges. The petition was filed using the Proposed Agency Action ("PAA") process authorized by Section 366.06(4), Florida Statutes.

2. On May 27, 2009, after having reviewed and discussed the petition at a regularly scheduled agenda conference, the Commission issued Order No. PSC-09-0375-PAA-GU, authorizing FPUC to increase its rates and charges by \$8,496,230. Rates designed to realize this increase were implemented pursuant to the order.

3. On June 17, 2009, the Office of Public Counsel ("OPC") who had intervened in this docket on December 30, 2008, filed a protest of portions of the PAA Order. On June 26, 2009, FPUC filed a cross-petition and the Commission established a schedule for hearings.

4. As a result of discussions between OPC and FPUC, the parties have agreed to a settlement that resolves the protests. A copy of the settlement is attached as Attachment "A" hereto.


5. In the settlement, the parties agree among other items to an increase of \$7,969,000 in base rates and charges. Also the parties agree that any issues associated with the recently

approved merger of Chesapeake Utilities and FPUC will be resolved in the pending Chesapeake rate case (Docket No. 090125-GU) and applied to this docket.

6. The Settlement represents an effort by both OPC and FPUC to resolve this docket. Undersigned counsel can represent that both parties fully participated in the formulation of the Settlement and both endorse approval of the Settlement. Approval would be in the best interests of the customers of FPUC.

7. This motion and Settlement are presented for review and approval of the Commission at the earliest opportunity. To this end, the Commission has a regular agenda scheduled November 10, 2009, and FPUC requests that his be taken up at that agenda if possible.

Respectfully submitted this 27<sup>th</sup> day of October, 2009.

  
NORMAN H. HORTON, JR.  
MESSER, CAPARELLO & SELF, P.A.  
Post Office Box 15579  
Tallahassee, FL 32317

Attorneys for Florida Public Utilities Company

**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

In re: Petition for rate increase by )  
Florida Public Utilities Company's )  
Gas Division )  
\_\_\_\_\_ )

Docket No. 080366-GU  
Filed: October 27, 2009

**STIPULATION AND SETTLEMENT**

This Stipulation and Settlement is entered into between the Citizens of the State of Florida by the Office of the Public Counsel (OPC) and Florida Public Utilities Co. (FPUC) for the purpose of settling Docket No. 080366-GU.

Whereas on December 17, 2008, FPUC filed a petition with the Florida Public Service Commission (PSC) seeking approval of an increase of \$9,917,690 to its base rates and charges using the Proposed Agency Action (PAA) process authorized by Section 366.06(4), Florida Statutes; and

Whereas FPUC has provided minimum filing requirements (MFR's) as required by rules of the PSC as well as additional data requested by the PSC and OPC; and

Whereas OPC intervened in this docket on December 30, 2008, and has fully participated in the analysis and review of the petition; and

Whereas on May 27, 2009, the PSC entered Order No PSC-09-0375-PAA-GU authorizing FPUC to increase its rates and charges by \$8,496,230; and

Whereas on June 17, 2009, OPC filed a protest to portions of the PAA order pursuant to Section 120.57, F.S., and Rules 25-22-029 and 28-106.201, Florida Administrative Code; and

Whereas on June 26, 2009, FPUC filed a cross petition; and

ATTACHMENT "A"

Whereas as a result of the protests, the PSC has scheduled additional hearings on this request; and

Whereas both OPC and FPUC are desirous of resolving this request in a manner that minimizes the expenses to all parties; and

Whereas OPC and FPUC are in agreement as to the appropriate and reasonable disposition of this petition.

Now, Therefore, the Parties Agree as follows:

1) OPC and FPUC agree that FPUC shall be entitled to increase its rates and charges so as to produce an additional \$7,969,000 in annual revenues. Rates and charges to produce this revenue shall be developed in the same way the rates were developed for the PAA Order.

2) When the PAA was issued, there was a definitive agreement between FPUC and Chesapeake Utilities (Chesapeake) whereby Chesapeake would acquire FPUC. As a result, the PSC included a "look back" requirement in the order to allow a review of the rates and charges if the merger was approved. The parties acknowledge that Chesapeake has a petition for rate increase pending and, rather than resolving merger related issues in this docket, the parties agree that all merger related activities required or agreed to in Docket No. 090125-GU will be applied to this docket.

3) OPC and FPUC recognize that as a result of this Settlement, FPUC may be required to make a refund to customers. In the event the PSC requires a refund, OPC agrees that such refunds may be made over a period of time not to exceed six (6) months.

4) The parties recognize that this Settlement is subject to approval by the PSC and agree that neither party will advocate or support any change to the terms of this Settlement. Both

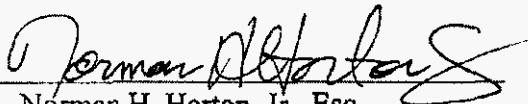
parties agree to endorse and support the Settlement before the PSC and any other administrative or judicial tribunal in any form.

5) Upon approval of the Settlement, each party's protests to the PAA Order are resolved and the docket will be closed.

6) The parties acknowledge that all issues not subject to OPC's protest and FPUC cross-protest have been resolved in accordance with the PAA Order.

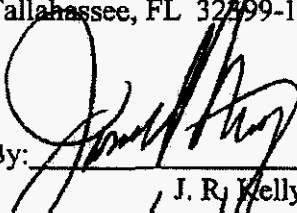
IN WITNESS WHEREOF the parties evidence their acceptance and agreement with the provisions of the Settlement by their signature.

**FLORIDA PUBLIC UTILITIES COMPANY**  
P.O. Box 3395  
West Palm Beach, FL 33402-3395

By:   
Norman H. Horton, Jr., Esq.

Date: 10/26/09

**OFFICE OF PUBLIC COUNSEL**  
111 West Madison Street, Room 812  
Tallahassee, FL 32399-1400

By:   
J. R. Kelly, Esq.

Date: 10/26/09

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that true and correct copies of the foregoing have been served by Electronic Mail and/or U. S. Mail this 27<sup>th</sup> day of October, 2009 upon the following:

Ralph Jaeger, Esq.  
Office of General Counsel  
Florida Public Service Commission  
2540 Shumard Oak Blvd.  
Tallahassee, FL 32399-0850

Patricia Christensen  
Associate Public Counsel  
Office of Public Counsel  
c/o The Florida Legislature  
111 West Madison St., Room 812  
Tallahassee, FL 32399-1400

  
NORMAN H. HORTON, JR.