

Writer's Direct Dial Number: (850) 521-1706
Writer's E-Mail Address: bkeating@gunster.com

May 27, 2011

BY HAND DELIVERY

Ms. Ann Cole, Commission Clerk
Office of the Commission Clerk
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

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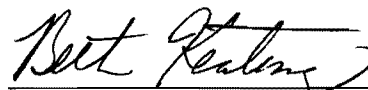
Re: Joint Petition for Approval of Territorial Agreement

Dear Ms. Cole:

Enclosed for filing, please find the original and 15 copies of the Joint Petition for Approval of Territorial Agreement between Florida Public Utilities Company and Peoples Gas System addressing the eastern portion of Volusia County, which is hereby jointly submitted for approval.

Thank you for your kind assistance with this filing, and as always, please do not hesitate to let me know if you have any questions or concerns.

Sincerely,



Beth Keating
Gunster, Yoakley & Stewart, P.A.
215 South Monroe St., Suite 601
Tallahassee, FL 32301
(850) 521-1706

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03739 MAY 27 =

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Joint petition for approval of :
territorial agreement in Volusia County, :
by Peoples Gas System and Florida :
Public Utilities Company. :

DOCKET NO. 110192-GU

Filed: May 27, 2011

JOINT PETITION FOR APPROVAL OF TERRITORIAL AGREEMENT

Petitioners, Peoples Gas System ("Peoples") and Florida Public Utilities Company ("FPUC") (collectively, "Petitioners"), by their respective undersigned attorneys and pursuant to Section 366.04(3)(a), *Florida Statutes*, and Rule 25-7.0471, *Florida Administrative Code* ("F.A.C."), jointly file this petition for an order approving a territorial agreement between Petitioners in the eastern portion of Volusia County, said agreement being attached hereto as Attachment A. In support of this Petition, Petitioners state as follows:

1. The names and mailing addresses of the petitioners are:

Peoples Gas System
P. O. Box 2562
Tampa, Florida 33601-2562

Florida Public Utilities Company
401 S. Dixie Highway
P. O. Box 3395
West Palm Beach, Florida 33402

2. The names and mailing addresses of the persons authorized to receive notices and communications with respect to this petition are:

As to Peoples:

Ansley Watson, Jr., Esq.
Macfarlane Ferguson & McMullen
P. O. Box 1531
Tampa, Florida 33601-1531

Paula K. Brown
Peoples Gas System
P. O. Box 2562
Tampa, Florida 33601-2562

DOCUMENT NUMBER-DATE

03739 MAY 27 =

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As to FPUC:

Beth Keating, Esq.
Gunster, Yoakley & Stewart, P.A.
215 South Monroe Street, Suite 618
Tallahassee, Florida 32301-1839

Thomas A. Geoffroy
Vice President
Florida Public Utilities Company
401 S. Dixie Highway
P.O. Box 3395
West Palm Beach, Florida 33402

3. Each petitioner owns and operates natural gas distribution facilities in various portions of Florida, and each is a public natural gas utility subject to the Commission's regulatory jurisdiction under Chapter 366, *Florida Statutes*.

Background

4. Peoples operates a natural gas distribution system in Volusia County, primarily in the northern areas of the county, with the greatest concentration of customers in the Daytona Beach area. Peoples plans to continue expanding its distribution system in Volusia County as provided in the extension of facilities policy contained in its tariff on file with the Commission. FPUC also operates a natural gas distribution system in Volusia County, primarily in the southern areas of the county, with the greatest concentration of customers in the New Smyrna Beach area. FPUC also plans to continue expanding its distribution system in Volusia County as provided in the extension of facilities policy contained in its tariff on file with the Commission.

5. In mid-2010, Peoples became aware that FPUC was in negotiations with Florida Gas Transmission Company, LLC ("FGT"), for the purchase of an FGT lateral transmission line extending south from the FGT mainline in northern Volusia County through a portion of the areas of Volusia County currently identified as the service territory of Peoples, and continuing generally south-southeast through the county to the

New Smyrna Beach area currently identified as the service territory of FPUC. Peoples then held (and currently holds) franchises from both the City of Port Orange and the City of Daytona Beach, and provides natural gas service to customers in both locations. Through discussions between representatives of FPUC and Peoples, it became clear, however, that FPUC was interested in obtaining the FGT lateral primarily in connection with planned improvements to its New Smyrna Beach distribution system, and did not intend to duplicate any existing Peoples facilities used to serve customers in Daytona Beach and Port Orange.

6. The discussions between the Petitioners – even before FPUC’s purchase of the FGT lateral transmission line was agreed to and consummated – led to an agreement in principle between the Petitioners, and ultimately to the Volusia County Territorial Agreement attached hereto as Attachment A to this Petition.

Requested Relief

7. The parties seek Commission approval of the Volusia County Territorial Agreement. The agreement stipulates that approval by the Commission is a condition precedent to its effectiveness. Any modification to the service areas described in the agreement must be reviewed and/or approved by the Commission. Prior to the second anniversary of the Commission’s approval of the agreement, and no less frequently than every five years thereafter, the Petitioners will meet to review the status of the agreement and provide a written status report to the Commission.

8. Both Peoples and FPUC represent that approval and implementation of the Volusia County Territorial Agreement will not cause a decrease in the availability or

reliability of natural gas service from either company, or to the existing or future ratepayers of either company, and that the Commission's approval of the agreement would be consistent with the standards set forth in Section 366.04, *Florida Statutes*, and Rule 25-7.0471, *F.A.C.*

9. In the eastern part of Volusia County, the agreement separates the service areas of the Petitioners by a boundary line (the "Spruce Creek Boundary," as defined in Section 1 of the agreement and as depicted on the map attached as Exhibit A to the agreement). Each service area reserved by the agreement for each Petitioner is bounded on the east by the Atlantic Ocean. Both of these are natural boundaries. On the west, each Petitioner's service area is bounded by a line which was constructed to be generally parallel to, and five miles west of, the northern portion of the FGT lateral transmission line FPUC purchased from FGT. Areas in Volusia County west of this boundary are not affected by the agreement. As the boundaries of the service areas reserved by the agreement to the parties have been constructed, neither party will be required to transfer any customers to the other party.

10. All terms and conditions pertaining to the Volusia County Territorial Agreement, and the implementation thereof, are set forth in such agreement.

11. Absent the Commission's approval of the agreement, the plans of Peoples and FPUC for providing retail natural gas service in eastern Volusia County might well overlap. Petitioners submit that approval of the agreement by the Commission will assist in avoiding future uneconomic duplication of facilities by the parties, will expedite the handling of applications for service by future potential natural gas customers, and is

therefore in the public interest.

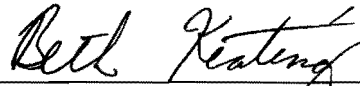
WHEREFORE, FPUC and Peoples respectfully request that the Commission enter its order approving the Volusia County Territorial Agreement.

Respectfully submitted,



ANSLEY WATSON, JR.
Macfarlane Ferguson & McMullen
P. O. Box 1531
Tampa, Florida 33601-1531
(813) 273-4321
aw@macfar.com

Attorneys for Peoples Gas System



BETH KEATING
Gunster, Yoakley & Stewart, P.A.
215 South Monroe Street, Suite 618
Tallahassee, Florida 32301-1839
(850) 521-1706
bkeating@gunster.com

Attorneys for Florida Public Utilities
Company

VOLUSIA COUNTY TERRITORIAL AGREEMENT

THIS VOLUSIA COUNTY TERRITORIAL AGREEMENT (this "Agreement") is made and entered into this 13th day of May, 2011, by and between **Peoples Gas System, a division of Tampa Electric Company**, a Florida corporation ("PGS"), and **Florida Public Utilities Company**, a Florida corporation ("FPUC"). PGS and FPUC are hereinafter sometimes referred to singularly as a "party" and collectively as the "parties."

WITNESSETH:

WHEREAS, FPUC and PGS are natural gas utilities subject to the regulatory jurisdiction of the Florida Public Service Commission ("Commission") under Chapter 366, *Florida Statutes*; and

WHEREAS, as pertinent to this Agreement, both FPUC and PGS are presently providing natural gas service to customers in portions of Volusia County, Florida; and

WHEREAS, FPUC has purchased from Florida Gas Transmission Company, LLC ("FGT") a lateral transmission line extending south from the FGT mainline through a portion of the areas of Volusia County currently identified as the service territory of PGS, and continuing generally south-southeast through the county to the New Smyrna Beach area currently identified as the service territory of FPUC; and

WHEREAS, in order to enable as many persons and businesses as possible within Volusia County to receive economical and reliable natural gas service, the parties have entered into this Agreement to avoid any unnecessary and uneconomic duplication of natural gas facilities which would be contrary to Commission policies and detrimental to the interests of their customers and the general public; and

WHEREAS, the Commission is empowered by the legislature of the State of Florida, pursuant to Section 366.04(3)(a), *Florida Statutes*, to approve and supervise territorial agreements between and among natural gas utilities; and

WHEREAS, the execution of this Agreement by the parties is not conditioned upon the acceptance of or agreement to any other contractual arrangements pending or contemplated by or between the parties.

NOW, THEREFORE, in fulfillment of the purposes and desires aforesaid, and in consideration of the mutual covenants and agreements herein contained, which shall be construed as being interdependent, the parties, subject to and upon the terms and conditions herein set forth, agree as follows:

Section 1.

For purposes of this Agreement, the following capitalized terms shall have the meanings set forth below:

"POINT 'A'" has the meaning given for such term in the definition of "Spruce Creek Boundary" (as hereinafter defined).

"FPUC Western Boundary" means a line described as follows:

Begin at POINT "A"; thence South 23°04'08" East, a distance of 129,075 feet, more or less to a point on the Easterly County Line of Volusia County, Florida (separating Volusia and Brevard Counties).

"PGS Western Boundary" means a line described as follows:

Begin at POINT "A"; thence North 23°04'08" West, a distance of 82,334 feet, more or less to a point on the Northerly County Line of Volusia County, Florida (separating Volusia and Flagler Counties).

"Spruce Creek Boundary" means a line described as follows:

Commence at coordinates 1,716,497.98 North, and 616,362.90 East, Florida State Plane Coordinate System, East Zone as referenced to the North American Datum of 1983 and represented herein in U.S. Survey Feet ("SPC"), said point being hereinafter referred to as POINT "A"; thence North 69°47'09" East, a distance of 14,515.56 feet to a point located at coordinates 1,721,513.57 North, and 629,984.40 East SPC, said point being located in the approximate centerline thread of Spruce Creek; thence along the thread of said Spruce Creek being witnessed by the following thirty-six (36) courses running near said centerline thread: (1) North 85°58'41" East, a distance of 2198.21 feet; (2) North 02°08'40" East, a distance of 748.12 feet; (3) North 78°41'16" East, a distance of 1845.72 feet; (4) South 79°56'42" East, a distance of 2355.38 feet; (5) North 57°01'07" East, a distance of 672.83 feet; (6) North 28°13'55" East, a distance of 3718.14 feet; (7) North 52°40'52" East, a distance of 4057.29 feet; (8) South 84°23'09" East, a distance of 1103.98 feet more or less to a point on said Florida Gas Lateral said point being approximately located at coordinates 1,728,360 North, and 642,983 East SPC; (9) North 88°36'47" East, a distance of 451.16 feet; (10) North 60°50'21" East, a distance of 1049.46 feet; (11) South 51°53'57" East, a distance of 2523.28 feet; (12) North 85°41'54" East, a distance of 712.25 feet; (13) North 09°17'21" West, a distance of 804.30 feet; (14) North 32°21'14" East, a distance of 1255.84 feet; (15) North 43°01'12" East, a distance of 929.09 feet; (16) South 13°26'21" East, a distance of 1051.52 feet; (17) North 60°05'36" East, a distance of 1224.62 feet; (18) North 71°55'41" East, a distance of 1409.48 feet; (19) South 10°08'26" East, a distance of 1604.95 feet; (20) South 89°20'03" East, a distance of 1970.49 feet; (21) South 09°59'42" East, a distance of 1500.36 feet; (22) South 50°16'31" East, a distance of 883.73 feet; (23) North 60°02'39" East, a distance of 1436.78 feet; (24) South 40°29'08" East, a distance of 1776.18 feet; (25) South 13°46'06"

East, a distance of 1866.19 feet; (26) South 09°05'45" West, a distance of 1352.66 feet; (27) South 61°47'10" East, a distance of 823.34 feet; (28) North 13°21'03" West, a distance of 1223.71 feet; (29) North 82°56'16" East, a distance of 931.15 feet; (30) South 39°29'24" East, a distance of 1345.01 feet; (31) North 39°27'45" East, a distance of 3705.96 feet; (32) North 87°19'44" East, a distance of 3800.60 feet; (33) North 31°40'18" East, a distance of 3050.07 feet; (34) North 62°20'01" East, a distance of 1345.10 feet; (35) South 63°26'58" East, a distance of 1440.92 feet; (36) North 90°00'00" East, a distance of 3085.70 feet to a point on the Intracoastal Waterway; thence along said Waterway, South 25°33'40" East, a distance of 3439.97 feet; thence North 62°18'55" East, a distance of 2646.55 feet to a point in the Matanzas River; thence along said River, South 61°03'27" East, a distance of 3994.50 feet; thence along and through the Matanzas Inlet, North 87°44'57" East, a distance of 3263.96 feet to the POINT OF TERMINATION in the Atlantic Ocean, said point being approximately at coordinates 1,724,325 North, and 682,816 East SPC.

Section 2.

(a) The parties' respective service areas in Volusia County shall be as designated on the map attached hereto as Exhibit A, which is hereby incorporated into and made a part of this Agreement.

(b) The service area reserved hereunder for PGS shall consist of that area in Volusia County bounded on the west by the PGS Western Boundary, on the north by the Volusia County line from its point of intersection with the PGS Western Boundary, along said county line to the Atlantic Ocean, on the east by the Atlantic Ocean, and on the south by the Spruce Creek Boundary. As between the parties, PGS shall have the authority to serve all customers within said area.

(c) The service area reserved hereunder for FPUC shall consist of that area in Volusia County bounded on the north by the Spruce Creek Boundary, on the west by the FPUC Western Boundary, on the south by the Volusia County line from its point of intersection with the FPUC Western Boundary, along said county line to the Atlantic Ocean, and on the east by the Atlantic Ocean. As between the parties, FPUC shall have the authority to serve all customers within said area.

(d) Except as specifically otherwise provided herein, each party agrees that it will not provide or offer to provide natural gas service to existing or potential customers within the service area herein reserved to the other party.

(e) Except as specifically otherwise provided herein, nothing in this Agreement is intended to affect the gate stations, regulators, or gas mains of one party which are now or which may in the future be located in the service area of the other party, and any problems between the parties involving these types of facilities shall be settled at the general office level of the parties. No such facilities shall be used by one party to provide natural gas service to customers located in the service area reserved hereunder to the other party.

(f) This Agreement shall have no effect on the boundaries of the respective service areas of the parties hereto as the same may now or hereafter exist except as specifically provided herein.

Section 3. Notwithstanding the provisions of Section 2, either party may request that the other party provide natural gas service to potential customers within the service area reserved hereunder to the requesting party. The party receiving the request may elect to provide service to such potential customers in its sole discretion subject to the approval of the Commission.

Section 4. If a party determines, in a specific instance, that good engineering practices or economic constraints on that party indicate that any small service area and/or future natural gas customer within that party's service area under Section 1 hereof should not be served by that party, such party shall notify the other party and request the other party to serve such small service area and/or potential customer. If the parties reach agreement thereon, the parties shall jointly and expeditiously seek approval of the Commission for modification of this Agreement in order to permit the appropriate party to provide such service to such small service area and/or future natural gas customer.

Section 5. This Agreement, after execution by the parties, shall be submitted jointly by the parties to the Commission for approval. It shall become effective on the date that a Commission order approving it becomes final and effective (the "Effective Date"), and continue in effect until termination or modification shall be mutually agreed upon by the parties and approved by the Commission, or until termination or modification shall be mandated by a governmental entity or court with appropriate jurisdiction. In the event that the Commission declines to approve this Agreement, the same shall be of no force or effect, and neither party shall have any claim against the other arising out of this Agreement.

Section 6. Prior to the second anniversary of the Effective Date and no more than every fifth anniversary thereafter, the Parties shall meet to review the status of this Agreement and shall submit a joint status report to the Commission (or any successor agency with power to consider approval or modification hereof).

Section 7. As soon as practicable after the Effective Date, each party agrees to file any revisions to its tariffs on file with the Commission which may be required as a result of the Commission's approval of this Agreement, and shall provide a copy of any such tariff revisions to the other party upon their filing with the Commission.

Section 8. The failure of either party to enforce any provision of this Agreement in any instance shall not be construed as a waiver or relinquishment on its part of any such provision but the same shall nevertheless be and remain in full force and effect.

Section 9. This Agreement shall become void and unenforceable if the Commission's jurisdiction with respect to approval and supervision of territorial agreements between natural gas utilities is terminated by statute or ruled invalid by a court of final appellate jurisdiction.

Section 10. This Agreement shall be governed by the laws of the State of Florida.

Section 11. This Agreement does not provide for the transfer of any existing customers or facilities.

Section 12. All notices under this Agreement shall be in writing and may be sent by facsimile, a nationally recognized overnight courier service, first class mail, or hand delivery, to the parties at the addresses and facsimile numbers set forth below:

To PGS:

President
Peoples Gas System
702 N. Franklin Street
Tampa, Florida 33602
Phone: (813) 228-4111
Facsimile: (813)

To FPUC:

Vice President/Business Development and Gas
Operations
Florida Public Utilities Company
401 S. Dixie Highway
P.O. Box 3395
West Palm Beach, Florida 33402
Phone: (561) 818-7762
Facsimile: (561)

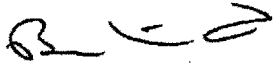
Notices shall be deemed given when received on a business day by the addressee. In the absence of proof of the actual receipt date, the following presumptions shall apply. Notices sent by facsimile shall be deemed to have been received upon the sending party's receipt of its facsimile machine's confirmation of successful transmission. If the day on which such facsimile is received is not a business day or, the receipt is after 5:00 p.m. on a business day, then such facsimile shall be deemed to have been received on the next succeeding business day. Notice by overnight mail or courier shall be deemed to have been received on the next business day after it was sent or such earlier time as is confirmed by the receiving party. Notice by first class mail shall be deemed to have been received on the third business day following deposit in the mail. A party may from time to time change the address to which notice hereunder is to be sent by providing notice to the other party pursuant to this section.

Section 13. This Agreement, on and after the Effective Date, shall be binding in accordance with its terms upon the parties hereto and their respective successors and assigns with regard to the retail distribution of natural gas. This Agreement shall not affect or bind affiliates or subsidiaries of PGS and FPUC.

[signature page follows]

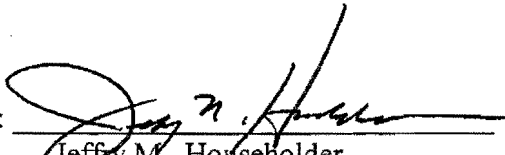
IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their duly authorized officers as of the date and year first above stated.

**PEOPLES GAS SYSTEM, a division of
Tampa Electric Company**

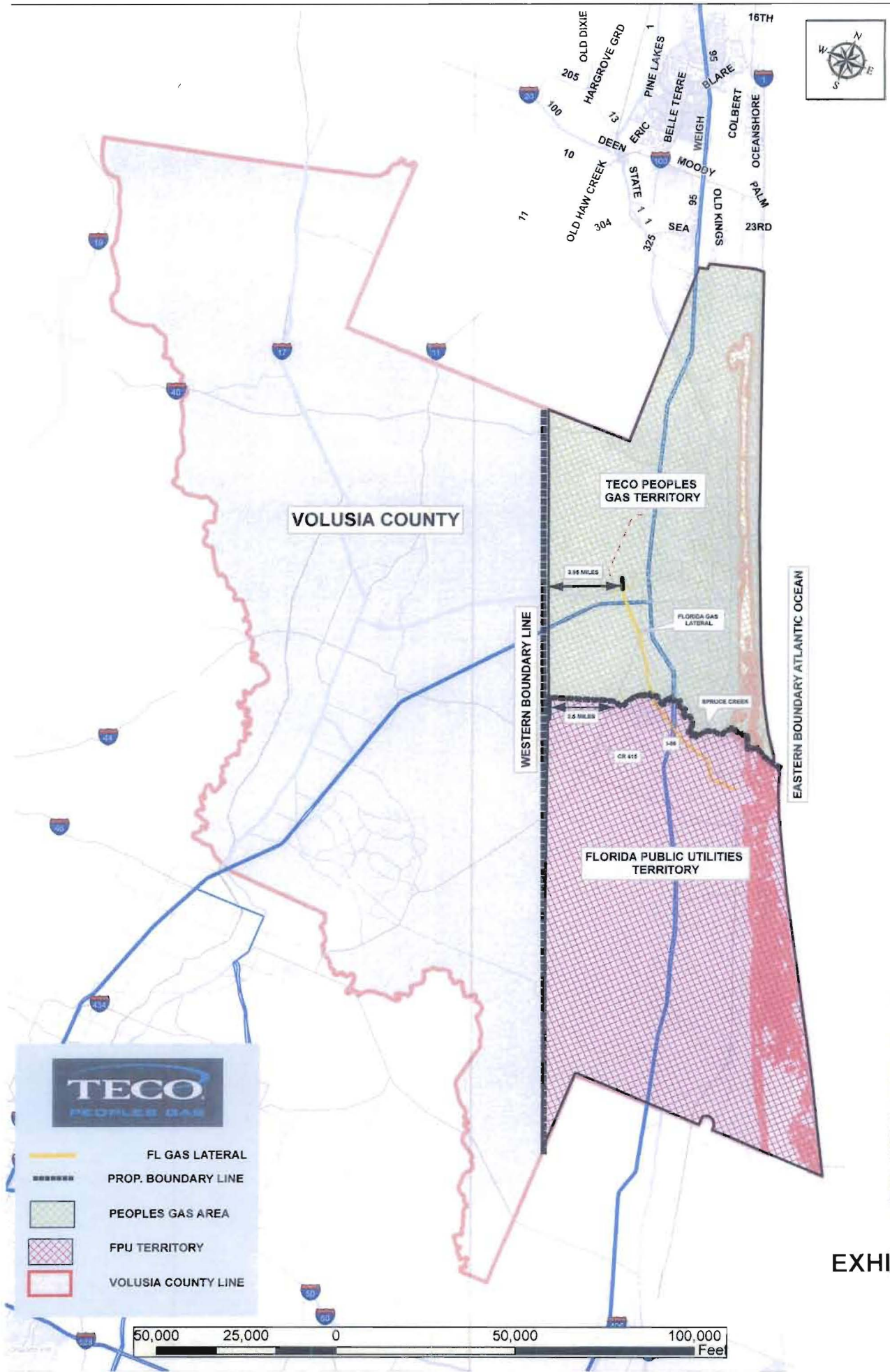
By: 

Bruce Narzissenfeld
Vice President - Fuels

FLORIDA PUBLIC UTILITIES COMPANY

By: 

Jeffrey M. Householder
President



DOCUMENT NUMBER-DATE

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EXHIBIT A