

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for rate increase by Florida City
Gas

Docket No. 20220069-GU

Served: June 30, 2022

**FLORIDA CITY GAS' RESPONSE
IN OPPOSITION TO THE OFFICE OF PUBLIC COUNSEL'S
MOTION TO MODIFY KEY ACTIVITY DATES**

Florida City Gas ("FCG"), pursuant to Rule 28-106.206, Florida Administrative Code ("F.A.C."), and this Commission's Order Establishing Procedure PSC-2022-0224-PCO-GU ("OEP"), submits the following Response in Opposition to the Office of Public Counsel's ("OPC") Motion to Modify Key Activity Dates. Although OPC contacted FCG's counsel regarding any objections to the motion as required by Rule 28-106.204(3), F.A.C., OPC's motion failed to accurately and fully note FCG's position on OPC's request, thereby necessitating this response.

For the reasons further explained below, FCG submits that OPC's Motion should be denied because it fails to establish good cause as required by Rule 28-106.204(4), F.A.C., for an extension of time. However, in the event the Commission is so inclined, FCG has no objection to OPC's request to modify the discovery timelines and FCG remains willing to agree to a modest and equivalent extension of all testimony due dates provided that any such extension does not otherwise modify or delay the hearing dates adopted in the OEP. In further support of this response, FCG states as follows:

1. On March 29, 2022, FCG filed its Test Year Notification pursuant to Rule 25-7.140, F.A.C.
2. On May 31, 2022, FCG filed its Petition, Minimum Filing Requirements ("MFRS"), direct testimony, and exhibits in support of FCG's proposed base rate increase.
3. On June 9, 2022, OPC served its First Set of Interrogatories (Nos. 1-108) and First

Request for Production of Documents (Nos. 1-27). On June 17, 2022, OPC served its Second Set of Interrogatories (Nos. 109-137) and Second Request for Production of Documents (Nos. 28-43).

4. On June 22, 2022, the Commission issued the OEP which established, among other things, the discovery procedures and controlling dates for this proceeding. Pertinent to OPC's motion, the OEP established the following due dates:

Activity	Due Date
Utility's testimony and exhibits	May 31, 2022
Intervenors' testimony and exhibits	August 16, 2022
Staff's testimony and exhibits, if any	September 1, 2022
Rebuttal testimony and exhibits	September 23, 2022
Hearing	December 12 – 16, 2022

5. On June 27, 2022, counsel for OPC contacted counsel for FCG regarding any objections to OPC's motion as required by Rule 28-106.204(3), F.A.C. On that same date, FCG provided OPC with a comprehensive response that included the following objections and alternative proposal to OPC's proposed request:

- FCG objects to OPC's characterization of the base rate case pending at Docket No. 20220069-GU as "complex" and to the allegation that two and half months is insufficient time for OPC to adequately prepare its case in chief.
- FCG object's to OPC's motion to the extent that it results or necessitates any modification, delay, or extension of the hearing dates established by the OEP.
- FCG objects to OPC's proposed testimony due dates; however, FCG is willing to agree to a ten-day extension for intervenors' testimony provided that the due dates for Staff's testimony and FCG's rebuttal are also extended by ten days.
- FCG has no objection to OPC's proposal to extend the discovery response period from twenty days to twenty-five days until the intervenor testimony due date and then revert back to a twenty-day response period after the intervenor

testimony due date.

6. On June 28, 2022, OPC filed the pending motion. In Paragraph 12 of the motion, OPC ignored FCG's detailed response and, instead, simply stated that FCG indicated it had several objections to the motion and OPC was not obligated to state those objections.

7. Because OPC's motion did not fully and accurately state FCG's position on the motion, FCG is now forced to incur the time and expense to prepare this response in order to inform the Commission of FCG's full position on OPC's motion.

8. Rule 28-106.204(4), F.A.C., provides "[m]otions for extension of time shall be filed prior to the expiration of the deadline sought to be extended and shall state good cause for the request."

9. In its motion, OPC requests that it be provided additional time to prepare its testimony. To establish good cause for this request, OPC alleges that FCG's base rate case is complex and two and half months is insufficient time for OPC to adequately prepare its case in chief (*see* OPC's Motion, ¶ 6), OPC's experts require additional time for discovery (*see* OPC's Motion, ¶ 6), and OPC's expert witnesses are busy and operate on tight time schedules (*see* OPC Motion, ¶ 9). Based thereon, OPC requests an additional three weeks to prepare its testimony. (*See* OPC Motion, ¶ 10.)

10. As FCG indicated to OPC on June 27, 2022, FCG objects to the motion's characterization of the pending base rate case as "complex" and to the allegation that two and half months is insufficient time for OPC to adequately prepare its case in chief. As demonstrated by FCG's filing, there is nothing unique or unprecedented about the proposals in FCG's base rate case. FCG submits that its proposed base rate increase is straightforward and no more complex than any other basic, standard base rate increase.

11. With respect to OPC's contention that it needs more time for discovery, FCG has

provided OPC with all of the information and data required by the Commission's MFRs. Further, OPC has already propounded robust discovery, which FCG is diligently working on to provide timely responses. Notably, despite its contention that it needs more time for discovery, OPC's motion does not request that the discovery deadline be extended and, in fact, proposes to increase the time period for FCG to respond to discovery served prior to the date of OPC's testimony, which are both at odds with OPC's contention that it needs more time for discovery.

12. OPC's statement that its expert witnesses are busy is, respectfully, an issue that is not unique to OPC or its consultants. FCG submits that all parties, Staff, and the Commission are busy, operate on tight time schedules, and have other obligations.

13. For these reasons, FCG submits that OPC's motion has failed to establish good cause to modify the testimony dates in this proceeding, OPC's request for an additional three weeks to prepare its testimony is unnecessary, and therefore OPC's motion should be denied. FCG believes that the controlling dates established by the OEP are appropriate and reasonably balance the interest and time of all parties.

14. That being said, as indicated in FCG's response to OPC on June 27, 2022, FCG is willing to agree to a ten-day extension for intervenors' testimony provided that the due dates for Staff's testimony and FCG's rebuttal are also extended by ten days. FCG also has no objection to OPC's proposal to extend the discovery response period from twenty days to twenty-five days until the intervenor testimony due date and then revert back to a twenty-day response period after the intervenor testimony due date.

15. Importantly, however, FCG strongly objects to any modification of the discovery procedures or controlling dates to the extent that such modification also necessitates a delay or extension of the hearing dates established by the OEP. Consistent with the statutory suspension period of Section 366.04(3), Florida Statutes, FCG has requested that a final decision be rendered

in time to make new base rates effective February 1, 2023, following 30-day notice to customers. Any extension or delay in the hearing dates established by the OEP could potentially cause the effective date of FCG's new base rates to exceed the statutory suspension period, which would unduly burden and prejudice FCG. Therefore, to the extent that OPC's request to modify the testimony due dates (or FCG's alternative compromise) would also require a delay in the hearing dates established by the OEP, FCG submits that any such modifications should be denied.

WHEREFORE, FCG respectfully requests that the Commission:

- a) Deny OPC's request to modify the due dates for testimony in this proceeding;
- b) Alternatively, if the Commission does not deny OPC's request to modify the due dates for testimony, extend the due dates for intervenor testimony, Staff testimony, and FCG's rebuttal equally by ten days (*i.e.*, intervenor testimony due on August 26, 2022; Staff testimony due on September 11, 2022; and FCG's rebuttal due on October 3, 2022) with all other dates established by the OEP to remain otherwise unchanged; and
- c) Grant OPC's proposal to extend the discovery response period from twenty days to twenty-five days until the intervenor testimony due date and then revert back to a twenty-day response period after the intervenor testimony due date.

Respectfully submitted this 30th day of June 2022,

FLORIDA CITY GAS

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by Electronic Mail to the following parties of record this 30th day of June 2022:

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