

State of Florida



Public Service Commission

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TALLAHASSEE, FLORIDA 32399-0850

-M-E-M-O-R-A-N-D-U-M-

DATE: July 20, 2023

TO: Office of Commission Clerk (Teitzman)

FROM: Division of Economics (Guffey) *EJD*
Division of Engineering (Thompson) *TB*
Office of the General Counsel (Dose) *JSC*

RE: Docket No. 20230029-GU – Petition for approval of gas utility access and replacement directive, by Florida Public Utilities Company.

AGENDA: 08/01/23 – Regular Agenda – Proposed Agency Action – Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Administrative

CRITICAL DATES: None

SPECIAL INSTRUCTIONS: None

Case Background

On February 21, 2023, Florida Public Utilities Company (FPUC or utility) submitted a petition for approval of the Gas Utility Access and Replacement Directive (GUARD) program. Through the proposed GUARD program, FPUC is seeking recovery of the revenue requirements of expedited programs to enhance the safety, accessibility, and reliability of portions of FPUC's natural gas distribution system, through a 10-year GUARD surcharge on customers' bills. The GUARD surcharge would be recalculated annually.

The proposed GUARD program addresses three projects in which FPUC has identified safety risks: (1) replacement of problematic pipes and facilities, (2) relocation of mains and service lines located in rear easement and other difficult to access areas to the front lot easements, and (3) enhancement of the system reliability in certain higher population areas.

In 2012, the Commission approved FPUC's Gas Reliability and Infrastructure Program (GRIP).¹ The purpose of GRIP was to recover the cost of accelerated replacement of cast iron and bare steel distribution mains and services that are subject to corrosion, through a separate surcharge on customers' bills. The Commission in its Order approving the GRIP found that the replacement of bare steel pipelines was in the public interest to improve the safety of Florida's natural gas infrastructure. The total GRIP investment from 2012 through 2023 is \$203,176,721. The GRIP replacement program is almost complete.

In the recently concluded FPUC rate case in Docket No. 20220067-GU, utility witnesses testified about the potential separate future request to establish Phase 2 of GRIP. The rate case docket also moved \$19.8 million GRIP revenue requirement, associated with the GRIP investments projected at the time of the rate case filing in May 2022, into rate base.² According to FPUC, the proposed GUARD program represents this Phase 2 aspect.

The total projected cost for the proposed 10-year GUARD program is \$215 million, which is based on current data. The utility states that it will refine this cost estimate as the program is developed.³ FPUC proposes to utilize the currently approved GRIP cost recovery surcharge mechanism to recover the GUARD program costs. FPUC states that none of the proposed GUARD projects to expedite the replacement, relocation, and system enhancement were included in the GRIP or the recently approved rate case and the program is not designed to fund the expansion of the utility's gas distribution system to serve new customers or to add load.

During the review process of the utility's petition, staff issued two data requests for which responses were received on April 11, May 17, and May 23, 2023. By Order No. PSC-2023-0161-PCO-GU, the Office of Public Counsel's intervention was acknowledged.

FPUC submitted sample GUARD tariff sheets as part of its petition. The sample tariffs do not require Commission action as they have been provided for informational purposes only. If the proposed GUARD program is approved, FPUC would file a petition by September 1, 2023 with proposed GUARD factors and tariffs to be effective January 1, 2024, which would follow the process that was used for the GRIP program. The Commission has jurisdiction over this matter pursuant to Sections 366.03, 366.04, 366.05, and 366.06, Florida Statutes (F.S.).

¹ Order No. PSC-2012-0490-TRF-GU, issued September 24, 2012, in Docket No. 20120036-GU, *In re: Joint petition for approval of Gas Reliability Infrastructure Program (GRIP) by Florida Public Utilities Company and the Florida Division of Chesapeake Utilities Corporation.*

² Order No. PSC-2023-0103-FOF-GU, issued March 15, 2023, in Docket No. 20220067-GU, *In re: Petition for rate increase by Florida Public Utilities Company, Florida Division of Chesapeake Utilities Corporation, Florida Public Utilities Company – Fort Meade, and Florida Public Utilities Company – Indiantown Division.*

³ Footnote 2 in FPUC's petition, Document No. 01221-2023.

Discussion of Issues

Issue 1: Should the Commission approve FPUC's proposed Gas Utility Access and Replacement Directive's (GUARD) program to be implemented on January 1, 2024?

Recommendation: Yes, in part. The Commission should approve FPUC's proposed 10-year GUARD program and its associated components for: (1) replacement of problematic pipes and (2) relocation of mains and facilities from rear lot to front lot easements, to be implemented as an annual surcharge mechanism starting on January 1, 2024. The above two components of the proposed GUARD program should enhance the safety and accessibility of portions of its natural gas distribution system. The Commission should deny inclusion of the proposed reliability program component because they are part of the utility's normal operations and therefore more appropriately addressed through traditional ratemaking processes.

FPUC should be required to file its annual GUARD program petitions to revise the surcharge on or before September 1 of each year and implement the revised surcharge effective January 1 through December 31 of the following year. The first petition should be filed on September 1, 2023, for GUARD factors to be effective January 1 through December 31, 2024. The annual GUARD program petitions should include all calculations to show a final true-up, actual-estimated true-up, projected year investments and associated revenue requirements, and the calculations of the GUARD factors by rate class. The annual petitions should also include a report including the location, date, description, and associated costs of all replacement projects completed and all projects scheduled for the following year. The remaining GRIP total investment of \$5.84 million and any remaining GRIP over- or under-recoveries should be included in the 2024 GUARD cost recovery. In FPUC's next rate case, and any subsequent rate cases, the GUARD revenue requirement should be moved into rate base. (Guffey, Thompson)

Staff Analysis:

Overview of the Proposed GUARD Program

In the recently concluded FPUC rate case in Docket No. 20220067-GU, utility witnesses Bennett⁴ and Cassel⁵ testified about the potential separate future request to establish Phase 2 of GRIP. The rate case docket also moved \$19.8 million of GRIP revenue requirement to rate base. According to FPUC, the proposed GUARD program represents this Phase 2 aspect.

Although the utility's GRIP program is largely completed, the utility asserts that it identified additional safety risks and reliability concerns that need to be addressed by the proposed GUARD program. FPUC stated that the proposed GUARD program and its associated projects

⁴ Direct testimony of FPUC witness Bennett, pp. 3-5. in Docket No. 20220067-GU: *Petition for rate increase by Florida Public Utilities Company, Florida Division of Chesapeake Utilities Corporation, Florida Public Utilities company-fort Meade, and Florida Public Utilities Company-Indiantown Division*, Document No. 03099-2022, filed May 24, 2022.

⁵ Direct testimony of FPUC witness Cassel, pp. 21-22. in Docket No. 20220067-GU: *Petition for rate increase by Florida Public Utilities Company, Florida Division of Chesapeake Utilities Corporation, Florida Public Utilities company-fort Meade, and Florida Public Utilities Company-Indiantown Division*, Document No. 03099-2022, filed May 24, 2022.

are not the result of an official regulatory requirement,⁶ but that the program is driven by risks identified under FPUC's Distribution Integrity Management Program (DIMP)⁷ and risk assessments performed by an independent contractor.

The utility consulted with an outside contractor to review and perform a risk assessment of its natural gas distribution system and facilities and to complete a risk ranking model. FPUC will use the contractor's recommendation to assess and prioritize projects that will be completed annually through the GUARD program. Projects that would address the highest risk will be prioritized starting April 2023. In response to staff's first data request, the utility stated that the GUARD projects to be completed from April 2023 to December 2024 are located in the City of Winter Springs, the Town of Lake Park, the Village of Indiantown, unincorporated Palm Beach County, and the City of West Palm Beach. Other project areas include Winter Haven, Sanford, Debarry and New Smyrna Beach.⁸ FPUC asserts that the GUARD program is not an expansion of its natural gas distribution system, but rather identifies risks associated with existing infrastructure.

The utility believes that the 10-year term for GUARD program is adequate to complete the projects described in this filing. FPUC asserts that it will continue to assess the distribution system and add projects as needed, which will allow the utility to keep the system safe without the increased cost of a rate case. The utility believes that the accelerated 10-year term will have the benefit of construction related cost savings over the life of the program and will avoid the impact of increased inflation and labor costs in the future. The utility also believes that it is prudent to re-evaluate the GUARD program at the completion of its initial 10-year term.⁹

The proposed three GUARD projects are described below.

Replacement of Problematic Mains

The utility asserts that it has identified various types of problematic distribution mains and service lines that need to be replaced on an expedited basis. FPUC explained that the problematic pipes are those manufactured or installed over 30 years ago, while the new piping materials are of superior quality and manufactured to new industry standards. Examples of problematic mains include previously unidentified bare steel mains, steel tubing, span pipe, shallow and exposed pipe, and obsolete pipe and facilities.

Span pipes are segments of pipe that cross over a barrier such as a creek, river, ditch, or highway. Being above ground, the span pipes are susceptible to damage and corrosion. Shallow and exposed pipes that are no longer safely buried due to erosion and other changes in the environment, are similarly susceptible to damage and corrosion. The obsolete piping includes Aldyl-A pipe, a type of first generation plastic pipes (pre-1982). FPUC states that as the pre-1982 pipe continue to age, the risk of developing leaks continues to grow. FPUC explained that the risk assessment study concluded that FPUC currently operates over 97 miles of at-risk

⁶ Response No. 1 in Staff's First Data Request, Document No. 02609-2023.

⁷ Pursuant to Section 192.1005 Code of Federal Regulations, a gas distribution operator must develop and implement an integrity management program that includes a written integrity management plan.

⁸ Response No. 7 in Staff's First Data Request in Docket No. 20230029-GU, Document No. 02609-2023.

⁹ Response No. 3A in Staff's First Data Request, Document No. 02609-2023.

Date: July 20, 2023

problematic pipe, of which approximately 76 miles are considered to show a moderate to high level of risk. The risk assessment study also states that FPUC currently operates and maintains 66 above ground span pipe segments, of which 51 are deemed moderate to high risk.

Staff believes that the replacement of problematic mains through a surcharge is a reasonable approach to improve the safety of Florida's natural gas infrastructure and to reduce risk to life and property. Therefore, consistent with the Commission's prior Order No. PSC-2012-0490-TRF-GU approving the GRIP program, staff recommends that this component of the GUARD program should be eligible for expedited recovery to address safety concerns raised by the utility's DIMP.

FPUC provided estimated total 10-year costs of \$20.4 million to replace span pipe and \$10.4 million to replace Aldyl-A pipes in Indiantown for a total projected cost of \$30.8 million to replace problematic pipes. The utility states that it currently does not have an estimate of the costs for any other problematic pipeline replacements. FPUC states that any remaining bare steel would be replaced as discovered and shallow and exposed pipe would be replaced based on a safety analysis.

Relocation of Mains and Services Located in Rear Easements

FPUC asserts that its proposed relocation of mains and services located in rear easements is similar to Florida City Gas's (FCG) Safety, Access, and Facility Enhancement (SAFE) program approved by the Commission in 2015.¹⁰ In the order approving the SAFE program, the Commission found that FCG's SAFE program is in the public interest and will serve to improve safety, reduce potential damage to property, and impede theft.

FPUC states that the primary driver for the relocation is to make it easier and more efficient to operate and maintain the system and conduct inspections and repairs. FPUC identified certain areas such as fenced-in properties, and where construction of buildings, pools, or patios, and vegetation growth makes it difficult for FPUC personnel to access their facilities. Furthermore, FPUC states that rear lot facilities could contribute to increased opportunities for gas theft or diversion, increasing the risk of safety incidents.

FPUC asserts that it has approximately 446 miles of residential mains located in rear easements, and estimates that approximately 237 miles will need to be replaced initially due to their higher risk of failure.¹¹ FPUC expects to replace 284 miles which is approximately 20 percent more pipes than are retired (237 miles) as a result of relocating to the front easements. In addition to the mains, the utility would also replace 9,554 service line facilities that are associated with the rear lot easements.

Relocation of mains and services would improve system safety and operations for both customers and FPUC employees. Therefore, consistent with the Commission's prior Order No. PSC-2015-0390-TRF-GU approving the SAFE program, staff recommends that this component

¹⁰ Order No. PSC-2015-0390-TRF-GU, issued September 15, 2015, in Docket No. 20150116-GU, *In re: Petition for approval of safety, access, and facility enhancement program and associated cost recovery methodology, by Florida City Gas.*

¹¹ Response No. 6b in Staff's First Data Request, Document No. 02609-2023.

of the GUARD program should be eligible for expedited recovery to address these safety concerns. The proposed surcharge cost recovery mechanism should enable FPUC to expedite the necessary relocation projects without a general rate case proceeding. The utility estimates a total 10-year cost of approximately \$174 million for the relocation projects.

Enhancing System Reliability

FPUC is also requesting to include two reliability projects under its GUARD program to address reliability issues for segments in higher population areas as soon as possible. The utility has indicated that its pipeline system is safe and reliable, but has identified several communities that are at a higher risk of reliability issues than others.¹² One reliability project consists of installing pipeline loops in certain communities to operate in parallel to existing pipelines that were installed with smaller diameters than what current design practices require. FPUC states that this project would improve volume capacities to reduce the potential of outages. The utility estimates the cost of this project to be approximately \$5 million. The second reliability project consists of installing secondary feeds in certain communities being served by a single pipeline. By installing a secondary feed at a different geographic point than the existing sole source, FPUC believes this would reduce the risk of an outage to the community if the existing pipeline sustains damage or other operating conditions limit its ability to function as designed. In response to staff's first data request, FPUC listed the following municipalities which need to have a secondary feed: Palm Beach Shores, Singer Island, South Palm Beach, Manalapan, New Smyrna Beach, Edgewater, Deerfield Beach, and Hypoluxo Island. The utility estimates the cost of this project to be approximately \$5 million.

Neither of the reliability projects discussed above are included in FPUC's DIMP as they are not safety-related and are not a result of the Pipeline and Hazardous Safety Administration's (PHMSA) federal regulations, but are rather a part of the utility's normal operations. As such, staff does not believe that it is appropriate to include these projects under a potentially long-term, safety-related program with accelerated recovery and the intent of expedited installation/replacement. Therefore, staff recommends that the proposed reliability projects be removed from FPUC's GUARD program.

Staff notes that FPUC has alternative mechanisms available to seek cost recovery of the reliability projects as needed, such as through a petition for a limited proceeding or base rate proceeding. In response to Staff's Second Data Request, FPUC indicated that reliability projects are typically evaluated and prioritized based upon a variety of factors as resources allow, and indicated that it also has processes in place to provide short-term emergency supply to communities and intake points if needed.¹³ Therefore, FPUC may address the proposed reliability projects, and any others, by availing itself of other traditional ratemaking processes.

Remaining GRIP Costs

The rate case docket moved \$19.8 million of GRIP revenue requirement, associated with the GRIP investments projected at the time of the rate case filing in May 2022, into rate base. Following the rate case filing, FPUC had additional months of actual investment costs and

¹² Response No. 18A in Staff's First Data Request, Document No. 02609-2023.

¹³ Response No. 7 to Staff's Second Data Request, Document No. 03270-2023.

updated investment amounts. This updated investment amount, which excludes the amount moved into rate base, was the basis for 2023 GRIP factors the Commission approved in Order No. PSC-2022-0401-TRF-GU. FPUC filed its petition for 2023 GRIP factors in September 1, 2022.

The utility requests that it be allowed to move the GRIP investments that were not rolled into rate base in Docket No. 20220067-GU, as the beginning balance to be recovered via the proposed GUARD program. The total remaining GRIP amount to be rolled into the GUARD program is the beginning balance of \$5.84 million. Staff confirmed that \$5.84 million is the correct GRIP investment amount that has not been moved into rate base in the rate case and has been approved by the Commission in Order No. PSC-2022-0401-TRF-GU. Specifically, the \$5.84 million represent \$5,915,090 of investment cost for FPUC and (\$75,759) for Chesapeake that remained after the rate case. The amount for Chesapeake is a negative number, because actual investment cost were lower than the amount included in the rate case. Additionally, the utility requests that any remaining over- or under-recovery from the GRIP program be included in the proposed GUARD program cost recovery.

Staff believes it is appropriate for any remaining GRIP amounts to be rolled into the GUARD program for cost recovery. Accordingly, there would be no GRIP surcharge on customers' bills starting January 1, 2024; the proposed GUARD surcharge would replace the GRIP surcharge.

Determination of GUARD Revenue Requirement

FPUC is seeking cost recovery for an estimated \$215 million for the 10-year (2024-2034) GUARD program as summarized in the table below:

**Table 1-1
 Projected 2024-2034 Total GUARD Costs**

GUARD Project Type	Estimated Cost (\$ in millions)*
Problematic Mains	
Span pipe replacement	\$20.4
Pre-1982 pipe replacement (Indiantown)	\$10.4
Relocate mains and services from rear to front	\$174
Reliability projects	
Pipeline loops	\$5
Secondary Feeds	\$5
TOTAL (rounded)	\$215

Source: Docket No. 20230029-GU Petition.

*These estimated costs will be refined as the program is developed.

FPUC stated that the GUARD program cost is estimated to be composed of 80 percent mains, 14 percent services, and 6 percent meters and regulator equipment.¹⁴ During the first year (2023) of implementing the GUARD program, the utility proposes to spend an estimated \$7.6 million, in

¹⁴ Response No. 10 in Staff's Second Data Request, Document No. 03270-2023.

order to be sensitive to the base rate increase approved in its recent rate case.¹⁵ Following the initial year of GUARD, the utility will begin to increase its projects. The utility is requesting that all projected program expenditures to be expended starting in April 2023 be recovered starting on January 1, 2024. Staff believes that if the Commission approves the proposed GUARD projects discussed in this Issue, the utility should include any projects that started in 2023 for cost justification in its September 2023 petition.

FPUC asserts that the proposed methodology to calculate GUARD program surcharges is the same as that utilized for the approved GRIP program. Specifically, the utility is not proposing any modifications to the surcharge at this time and proposes that the cost allocation methodology utilized for GRIP, but updated with the allocations from the recently approved rate case, be used in GUARD calculations.

Similar to the GRIP, the GUARD program revenue requirement would include a return on investment, depreciation expense, customer notification expense, and ad valorem taxes; all expenses are dependent upon the level of investment costs. Staff believes that the proposed expenses are consistent with the approved GRIP revenue requirements and are reasonable with the exception of the proposed reliability projects; however, the revenue requirements should be reviewed in the annual petitions. FPUC should also quantify any operations and maintenance and depreciation cost savings resulting from the new replacement pipes and use the savings to offset the GUARD program revenue requirement. Any savings should be shown as a separate line item in the filings. If no savings can be identified, FPUC should provide an explanation in its annual GUARD petitions.

FPUC states it would calculate the return on investment using the equity and debt components of the weighted average cost of capital from FPUC's recent rate case as reflected in its most recent year end surveillance report. For subsequent GUARD program true-up filings, the utility would use the most recent earnings surveillance report. Consistent with the GRIP calculations, the GUARD surcharge would include depreciation expense associated with the replacement pipes at the rates approved in the most recent depreciation study.

Notification expenses include noticing required for regulatory purposes, general publications of planned activities, and notice to customers directly affected by replacement activities. FPUC anticipates that the ad valorem taxes will increase as a result of the capital projects to be undertaken during the 10-year project period. The utility requests that it be allowed to recover the ad valorem taxes through the surcharge grossed up for federal and state income taxes. The utility has estimated an ad valorem tax rate at 2 percent for this filing. The actual composite ad valorem tax rate for each year will be applied in the annual petitions.

GUARD Rate Impacts

In response to staff discovery, FPUC provided GUARD rate impacts for 2024 through 2034, assuming there is no rate case in the next 10 years in which the GUARD program revenue

¹⁵ The estimated \$7.6 million 2023 GUARD investment would be added to the \$5.84 million remaining GRIP investment in the September 2023 GUARD petition for 2024 GUARD factors.

requirement would be rolled into rate base and the GUARD surcharge would be reset.¹⁶ A residential customer on the RES-2/REST-2 rate schedule, using 20 therms a month, would have in 2024 an expected monthly bill impact of \$0.47 or \$5.65 annually. In year 10, the projected impact on a residential customer on the RES-2/REST-2 rate schedule, using 20 therms a month, would be \$4.62 per month, or \$55.60 annually. FPUC states that the costs are estimated expenses and projects filed and completed each year would vary based on numerous factors such as contractor resources, timelines, or cost of projects.

Conclusion

The Commission should approve FPUC's proposed 10-year GUARD program and two of its associated components: (1) replacement of problematic pipes, and (2) relocation of mains and facilities from rear lot to front lot easements, to be implemented as an annual surcharge mechanism starting on January 1, 2024. The above two components of the proposed GUARD program should enhance the safety and accessibility of portions of its natural gas distribution system. The Commission should deny inclusion of the proposed reliability program component because they are part of the utility's normal operations and therefore more appropriately addressed through traditional ratemaking processes.

Without the surcharge, it is reasonable to expect that FPUC would have to file for more frequent base rate proceedings to recover the expenses. The annual filings should provide the Commission with the oversight to ensure that projected expenses are reasonable and only actual costs are recovered. The GUARD program and associated surcharges should terminate when all replacements have been made and the revenue requirement has been rolled into rate base. If FPUC wishes to continue the GUARD program beyond the 10 years requested in this petition, FPUC should file a petition with the Commission seeking approval to continue or modify the GUARD program.

FPUC should be required to file its annual GUARD petitions to revise the surcharge on, or before, September 1 of each year and implement the revised surcharge effective January 1 through December 31 of the following year. The first petition should be filed on September 1, 2023, for GUARD factors to be effective January 1 through December 31, 2024. The annual GUARD petitions should include all calculations to show a final true-up, actual-estimated true-up, projected year investments and associated revenue requirements, and the calculations of the GUARD factors by rate class. The annual petitions should also include a report including the location, date, description, and associated costs of all replacement projects completed and all projects scheduled for the following year. The remaining GRIP amount of \$5.84 million and any remaining over- or under-recoveries should be included in the 2024 GUARD program cost recovery. In FPUC's next rate case, and any subsequent rate cases, the GUARD program revenue requirement should be moved into rate base.

¹⁶ Response No. 27 in Staff's First Data Request, Document No. 02609-2023.

Issue 2: Should this docket be closed?

Recommendation: Yes. If no protest is filed by a person whose substantial interests are affected within 21 days of the issuance of the Order, this docket should be closed upon the issuance of a Consummating Order. (Dose)

Staff Analysis: If no protest is filed by a person whose substantial interests are affected within 21 days of the issuance of the Order, this docket should be closed upon the issuance of a Consummating Order.