

State of Florida



Public Service Commission

CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD
TALLAHASSEE, FLORIDA 32399-0850

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

DATE: October 27, 2023

TO: Office of Commission Clerk (Teitzman)

FROM: Division of Economics (Ward, Hampson, P. Kelley) *EJD*
Office of the General Counsel (Brownless) *JSC*

RE: Docket No. 20230094-GU – Petition by Peoples Gas System, Inc. for approval of special contract with Tampa Port Authority.

AGENDA: 11/09/23 – Regular Agenda – Proposed Agency Action – Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Graham

CRITICAL DATES: None

SPECIAL INSTRUCTIONS: None

Case Background

On August 25, 2023, Peoples Gas System, Inc. (Peoples or the utility) filed a petition for approval of a special contract with the Tampa Port Authority (the Port). The Port is the governing body and port authority of the Hillsborough County Port District, an independent special district of the State of Florida, created by Chapter 95-488, Laws of Florida (the Port's Enabling Act).

The Port is seeking gas service from Peoples in order to run a standby gas-fired electric generator that would add resiliency during a loss of electric power. The proposed special contract modifies Peoples' standard gas service agreement to correspond with the terms of the Port's Enabling Act. Specifically, the term of the grant of easement and the indemnification language are being modified. Peoples and the Port have executed an easement agreement which is separate from the

special contract. The easement agreement itself does not require Commission approval and was signed by representatives of the Port on June 13, 2023.

The purpose of the special contract is to allow Peoples to construct a service line and provide natural gas service to the Port. The natural gas would power a gas-fired electric generator that would provide resiliency to the Port during times of electrical power outages. Under the special contract the Port would take service for 500 therms per year at a capacity of 3,000 cubic feet per hour. In response to staff's first data request, Peoples stated that the service line constructed in the easement will be 1¼" in diameter and approximately 258 linear feet. The utility also stated that it has constructed an approximate 450-foot long extension of the main pipeline within the right of way to provide service to the Port. The extension is not part of the special contract.

On October 6, 2023, staff issued a data request, to which responses were received on October 12, 2023. The proposed special contract is included in this recommendation as Attachment A. The Commission has jurisdiction over this matter pursuant to Sections 366.03, 366.04, 366.05, and 366.06, Florida Statutes (F.S.).

Discussion of Issues

Issue 1: Should the Commission approve the special contract between Peoples and Tampa Port Authority?

Recommendation: Yes, the Commission should approve the special contract between Peoples and Tampa Port Authority. The changes addressed in the special contract are necessary to correspond with the terms of Tampa Port Authority's Enabling Act and allow it to receive gas service. Peoples should file a conformed copy of the signed special contract with the Commission before the special contract becomes effective. (Ward)

Staff Analysis: Pursuant to Rule 25-9.034, Florida Administrative Code, Commission approval is required if a utility enters into a contract where its filed regulations and standard approved rate schedules are not specifically covered under the contract. The proposed special contract makes changes to Peoples' standard gas service agreement and requires Commission approval under this rule.

Peoples Gas Service Agreement

Peoples' standard gas service agreement contained in Tariff Sheet Nos. 8.102 and 8.102-1 is completed by a customer in order to initiate natural gas service. The gas service agreement includes a wide range of customer information as well as terms and conditions. Included within the terms and conditions is a grant of "perpetual right of ingress and egress" to allow the utility to operate and maintain the gas pipe and gas meter installed on the customer's property. Additionally, the utility's standard indemnity provision specifies that the customer: "shall be responsible for marking and/or locating any underground facilities that may be on Customer's property that do not belong to local utilities (Power, Telephone, Water, Cable TV companies, etc.) and agrees to indemnify and hold [c]ompany harmless for any damages arising out of Customer's failure to do so."

Port Enabling Act

The Port's Enabling Act establishes the powers necessary for the Port to carry out the provisions of its Enabling Act and has "the specific responsibility of planning and of carrying out plans for the long-range development of the facilities of and traffic through the port in the port district."¹ Additionally, the Enabling Act provides for certain conditions related to easements and rights of way. Specifically, the Enabling Act provides that:

"[e]asements for rights of way for railroads, pipelines, gas pipes, and electric transmission, telephone, and telegraph lines may be granted by the port authority for a period not to exceed 40 years with an option of 40 years without the approval, of the electors, but no such easement shall be exclusive, and every easement shall be subject to the right of the port authority or its successors and assigns to use and occupy the lands over or under the pipe or other line for any legitimate purpose."

¹ Chapter 95-488, Section 7, Laws of Florida.

Proposed Special Contract

The proposed special contract modifies the term of the grant of easement and the indemnification language of the standard gas service agreement form to correspond with the terms of the Port's Enabling Act. Specifically, the right of ingress and egress is limited to a period of 40 years with automatic one-year extensions at the expiration of the 40 year period. Additionally, the special contract modifies the standard gas service agreement to specify that the customer's indemnification of the utility is "to the extent permitted by law." The extent permitted by law is a \$200,000 limit on damages. Section 768.28(5), F.S.

Staff has reviewed the proposed special contract and the provided easement agreement between Peoples and the Port and believes that the special contract would not negatively impact the general body of ratepayers. In response to staff's data request, Peoples explained that no other customer would connect to the service line constructed for the Port, because the facilities within the easement are fully located on the property owned and maintained by the Port.² Furthermore, Peoples explained that it would not connect potential future customers to the Port's service line, because this would be inconsistent with the utility's best practices. Instead, any future customers would be required to connect to the existing main pipeline located in the right of way outside of the Port's property.³

Conclusion

Staff believes that the special contract between Peoples and Tampa Port Authority is reasonable and that the changes made to Peoples standard form gas service agreement are necessary to correspond with the terms of the Port's Enabling Act. Staff recommends approval of the special contract. Peoples should file a conformed copy of the signed special contract with the Commission before the special contract becomes effective.

² DN 05652-2023, response No. 7.

³ DN 05652-2023, response No. 9.

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. (Brownless)

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.



Gas Service Agreement

No. Q8UJ9A03E2N9

Business Partner Name (Customer) TAMPA PORT AUTHORITY		Phone (813) 241-1701	Cell Phone (813) 955-5007	E-mail nsanchez@tampaport.com				
Service Address 6807 Lakeview Center Drive		City Tampa	State FL	Zip 33619				
Doing Business As (DBA) Port Tampa Bay		City Limits (Enter Yes or No)	County Name Hillsborough					
Mailing Address 1101 Channelside Drive.		City Tampa	State FL	Zip 33602				
Contact Name Norberto Sanchez		Phone (813) 241-1701	E-mail nsanchez@tampaport.com					
Federal ID 59-6001256	Tax Exempt (Yes or No)	Date Service Line Requested 04/01/2023	Date Gas Service Requested 04/01/2023					
Field Contact Name Eric Nash		Phone (850) 417-0845	E-mail enash@blackwatercsllc.com					
SALES INSTRUCTIONS/REMARKS			SERVICE TYPE					
Commercial service to generator			Main (Enter On or Off) On					
			New (N), Added Load (AL), Conversion (Co) N					
			Reactivate (RA) Manifold (MA)					
			Residntl (R), Commrl (C) C					
			Industrial (I)					
			Rate Class CS-SG					
			Map #					
QTY.	APPLIANCE TYPE	PEAK HR DEMAND CF/H	ANNUAL THERMS PRESENT	ANNUAL THERMS ADDITIONAL	PRESSURE AT EQPT.	FINANCIAL INFORMATION		OTHER SERVICES
1	GE	3000			2 lb	Gas Deposit	\$125.92	WH Billing Prog
						Turn-on Charge	\$100.00	Conversion Bill
						Aid to Construction (Non-Refundable)	\$0.00	Other 600000001142
						Construction Deposit		Other
						Prepayment		Other
						Balance Due	\$225.92	Other
						DEALER INFORMATION (if applicable)		
						Dealer Name		
						Dealer Phone		Alt Phone
						Services to be provided by Dealer		
TOTAL		3000		500				
TO BE COMPLETED BY PGS ONLY								
Meter Size	Regulator Size	BP#	1100876042		CA#			
System Pressure	Delivery Pressure	Premise#			Install#			
Conversion Propane Company	Meter#			Project#				
REMARKS								
I have read all of the terms and conditions on the second page and agree to them.								
Business Partner/Customer Signature						Sales Rep Signature		20426
Business Partner/Customer Printed Name						Sales Rep Printed Name		Sales Rep ID #
Date						Date		
						Frank Hernandez		

PGS CUSTOMER SERVICE CONTACT DURING INSTALLATION OF GAS SERVICE

PHONE #: 1-877-832-6747

Gas Service Agreement No. Q6UJ9A03E2N9

Page 2

NATURAL GAS SERVICE TERMS AND CONDITIONS:

The applicant named on the first page hereof ("Customer") makes application to Peoples Gas System, Inc. ("Company") for natural gas service under the rate classification indicated on the first page hereof according to the following terms and conditions in consideration of the Company's agreement to deliver natural gas to Customer pursuant to the applicable provisions of Company's tariff approved by the Florida Public Service Commission. Gas is to be delivered to Customer at the outlet side of the Company's gas meter serving the premises indicated on the first page hereof, such meter and service line there to be installed and operated by the Company, and, if located on Customer's property, the site therefor to be furnished free of charge by Customer.

The Company and its representatives are hereby authorized to enter upon and install on Customer's property any required gas meter or meters and gas pipe for furnishing gas to said address, and to ditch, lay, or otherwise install pipe as is required outside the building(s). The gas pipe from the Company's gas system to and including said meter or meters shall be owned, operated, and maintained by the Company, with a perpetual right of ingress and egress thereto for a period of 40 years, hereby granted to the Company for such purposes. At the expiration of the 40-year period, such ingress and egress right granted to the Company shall automatically extend, in one year intervals, concurrent with the 12 month renewal term of this agreement. If Customer terminates this agreement, the ingress and egress rights granted to Company shall terminate, however, Company shall have ingress and egress rights, for a reasonable period of time, for the purpose of Company capping and abandoning the pipe that is the subject of this agreement. Installation of Company's facilities may require that Company be granted an easement. All gas pipe, from the outlet side of said meter or meters, shall be owned, operated, and maintained by Customer at its sole cost and risk.

Customer shall receive and pay for all gas delivered to Customer according to the applicable provisions of Company's Tariff and the applicable rules and regulations of the Florida Public Service Commission. Any gas delivered to Customer at any other delivery point is also subject to the terms and conditions hereof. No oral statement shall change the term of this obligation. A customer receiving gas service under the residential or commercial standby generator tariff rate shall be obligated to remain on that schedule for 12 months. This 12-month requirement shall be renewed at the end of each 12-month period unless Customer terminates gas service at the end of any 12-month period.

If Customer fails or refuses to take gas service from the Company, Customer shall pay to the Company the actual cost incurred by the Company in constructing the facilities to have been used in providing service to the Customer. Any deposits currently held by the Company shall be forfeited by Customer in payment or partial payment of these costs.

UNDERGROUND FACILITIES:

Prior to construction of gas pipeline, it is extremely important that the Company be made aware of existing underground obstacles, sprinkler systems, septic tanks, sewer lines, or structures, etc., located on Customer's property which may be damaged as a result of installation of the gas pipeline. Customer shall be responsible for marking and/or locating any underground facilities that may be on Customer's property that do not belong to local utilities (Power, Telephone, Water, Cable TV companies, etc.). To the extent permitted by law, Customer and agrees to indemnify and hold Company harmless for any damages arising out of Customer's failure to do so.

GENERAL TERMS AND CONDITIONS APPLICABLE TO NATURAL GAS SERVICE:

This agreement is not assignable or transferable by Customer without prior written consent by the Company.

IN NO EVENT SHALL THE COMPANY OR ITS AFFILIATED COMPANIES, OFFICERS, DIRECTORS, EMPLOYEES, AGENTS OR REPRESENTATIVES BE LIABLE FOR ANY INCIDENTAL, INDIRECT, SPECIAL, CONSEQUENTIAL, EXEMPLARY OR PUNITIVE DAMAGES, INCLUDING, BUT NOT LIMITED TO, LOSS OF USE OF ANY PROPERTY OR EQUIPMENT, LOSS OF PROFITS OR INCOME, LOSS OF PRODUCTION, RENTAL EXPENSES FOR REPLACEMENT PROPERTY OR EQUIPMENT, DIMINUTION IN VALUE OF REAL PROPERTY, EXPENSES TO RESTORE OPERATIONS, OR LOSS OF GOODS OR PRODUCTIONS, EVEN IF THE COMPANY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

Customer understands and acknowledges that the dealer (if any) identified on the first page of this document ("Dealer") is not affiliated in any way with the Company and has not been engaged by the Company as a contractor or subcontractor. The Company assumes no responsibility whatsoever for any acts or omissions of, or any services or goods provided by, such Dealer.

This agreement may not be amended or modified except by an instrument in writing signed by the Company and Customer.

This agreement shall be governed by the laws of the State of Florida without regard to principles of conflicts of laws.

This agreement contains the entire understanding between the parties hereto and supersedes any written or oral, prior or contemporaneous agreement or understanding between the parties.

NOTE: I acknowledge installation of the required gas line will not be scheduled until the required easement is signed by the landowner and received by Peoples Gas System, Inc. _____ (customer initials)

Customer - Authorized Signature

Name

Title