

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: January 20, 2005

TO: Director, Division of the Commission Clerk & Administrative Services (Bayó)

FROM: Office of the General Counsel (Vining)
Division of Competitive Markets & Enforcement (Bulecza-Banks, Makin)

RE: Docket No. 040278-GU – Petition of Florida Public Utilities Company to resolve territorial dispute with Peoples Gas System.

AGENDA: 02/01/05 – Regular Agenda – Interested Persons May Participate

CRITICAL DATES: None

SPECIAL INSTRUCTIONS: None

FILE NAME AND LOCATION: S:\PSC\GCL\WP\2004\040278.RCM.DOC

Case Background

This proceeding was initiated on March 30, 2004, by the filing of a petition by Florida Public Utilities Company (FPUC) requesting that the Commission resolve a territorial dispute with Peoples Gas System (Peoples). The matter had been scheduled for an administrative hearing; however, pursuant to Order No. PSC-05-0019-PCO-GU, issued January 5, 2005, the hearing was cancelled. As stated in Order No. PSC-05-0019-PCO-GU, Peoples indicated that it no longer disputes the right of FPUC to extend its facilities into the disputed area for the purpose of providing natural gas service. As a result, Peoples does not intend to file testimony and exhibits disputing the right of FPUC to provide gas service to the disputed area or to further participate as a party to this proceeding. Accordingly, in Order No. PSC-05-0019-PCO-GU, both FPUC and Peoples were relieved from the procedural deadlines and requirements previously established for this proceeding. In addition, the hearing was cancelled because there was no longer a need for this matter to proceed to hearing since Peoples does not dispute FPUC's right to serve the disputed area and will no longer participate as a party to this proceeding. Currently, the hearing has been cancelled but the docket remains open and FPUC has not withdrawn its petition. As such, the Commission must act to close this docket, which is the

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subject of this recommendation. The Commission has jurisdiction to address this matter pursuant to Section 366.04, Florida Statutes.

Discussion of Issues

Issue 1: Should this docket be closed?

Recommendation: Yes. (Vining)

Staff Analysis: Because Peoples no longer disputes FPUC's right to serve the disputed area and will no longer participate as a party to this proceeding, in staff's opinion there is no longer a territorial dispute to be adjudicated by the Commission. Accordingly, the Commission need not take any further action on FPUC's petition; however, because FPUC's petition was not withdrawn, the Commission must act to close this docket. Therefore, staff recommends that this docket should be closed.