

dismissal of the pending petition to resolve the territorial dispute between the parties.

5. Attached to the proposed territorial agreement are Exhibits A, B and C. Exhibit A is a map of the City of Ft. Pierce and the surrounding area in St. Lucie County, Florida, depicting a service area boundary line which identifies the respective service areas of City Gas and FPUA. Exhibit B is a listing of customer accounts to be transferred from FPUA to City Gas. Exhibit C is a list of mains and related equipment to be transferred from FPUA to City Gas.

6. City Gas' and FPUA's present areas of retail service are contiguous in many places in and around the City of Ft. Pierce. Therefore, City Gas and FPUA submit that approval of the proposed territorial agreement will avoid the future uneconomic duplication of facilities by City Gas and FPUA.

7. City Gas and FPUA represent that approval and implementation of the proposed territorial agreement will not cause a decrease in the reliability of natural gas service to the existing or future ratepayers of either City Gas or FPUA.

8. All customers listed on Exhibit B to the agreement will be notified of the difference in rates between City Gas and FPUA and the existence of this docket. Once notification is complete, City Gas and FPUA will advise the Commission of that fact and any responses related thereto.

9. City Gas and FPUA represent that the proposed territorial agreement is in the best interest of the public.

WHEREFORE, City Gas and FPUA request that, after notification of affected customers is complete, the Commission issue an order approving and adopting the proposed City Gas-FPUA territorial agreement.

DATED this 8th day of September, 1994.

CITY GAS COMPANY OF FLORIDA

FORT PIERCE UTILITIES AUTHORITY

Joseph A. McGlothlin
JOSEPH A. MCGLOTHLIN
McWhirter, Reeves, McGlothlin,
Davidson & Bakas, P.A.
315 S. Calhoun Street
Suite 716
Tallahassee, FL 32301
(904) 222-2525

ATTORNEYS FOR CITY GAS

William J. Feebles
WILLIAM J. FEEBLES
Moore, Williams, Bryant
Feebles & Gautier, P.A.
Post Office Box 1169
Tallahassee, FL 32302-1169
(904) 222-5510

ATTORNEYS FOR FPUA

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that an original and 15 copies of the Joint Motion for Approval of Territorial Agreement and Dismissal of Territorial Dispute were filed with Ms. Blanca S. Sayó, Director, Division of Records and Reporting, Florida Public Service Commission, Fletcher Building, 101 E. Gaines Street, Tallahassee, Florida 32399-0859; and that a true and correct copy of the foregoing was furnished to Shelia Erstling, Florida Public Service Commission, Division of Legal Services, Fletcher Building, Room 212, 101 E. Gaines Street, Tallahassee, Florida, 32399, on this 24th day of September, 1994:

Joseph A. McDevitt
Attorney

TERRITORIAL AGREEMENT
CITY GAS COMPANY OF FLORIDA
AND
FORT PIERCE UTILITIES AUTHORITY

AGREEMENT

Section 9.1 THIS AGREEMENT is made and entered into this 2nd day of September, 1994, by and between the FORT PIERCE UTILITIES AUTHORITY, a municipal corporation organized and existing under the laws of the State of Florida ("FFUA"), and CITY GAS COMPANY OF FLORIDA, a private corporation organized and existing under the laws of the State of Florida ("COMPANY"). FFUA and COMPANY are hereinafter sometimes referred to singularly as "Party" and collectively referred to as "Parties."

W I T N E S S E T H :

Section 9.2 WHEREAS, FFUA, by virtue of legislative authority, is authorized and empowered to furnish natural gas utilities to private individuals, firms, corporations and governmental entities, both within and without the corporate limits of the City of Fort Pierce, and pursuant to such authority, presently furnishes natural gas utilities to customers within St. Lucie County, both inside and outside the corporate limits of the City of Fort Pierce; and

Section 9.3 WHEREAS, COMPANY, by virtue of its Charter, is authorized and empowered to furnish natural gas utilities to persons, firms, corporations and governmental entities throughout the State of Florida, and presently furnishes natural gas utilities to customers in areas of St. Lucie County, Florida, and elsewhere; and

Section 9.4 WHEREAS, a dispute has arisen between FFUA and COMPANY regarding service to natural gas customers located in St. Lucie County, and FFUA's Complaint to resolve such dispute is

presently pending before the Florida Public Service Commission ("PSC") in Docket No. 931023-GU; and

Section 0.5 WHEREAS, FPUA and COMPANY desire to settle the dispute between them in Docket No. 931023-GU in order that present and future applicants for natural gas service may expeditiously obtain such service from one or the other of them; and

Section 0.6 WHEREAS, the respective areas of retail service of the Parties hereto are contiguous in many places with the result that duplication of service facilities may occur in the future unless such duplication is precluded by virtue of this Agreement; and

Section 0.7 WHEREAS, the Parties hereto recognize that any duplication of said service facilities may result in needless and wasteful expenditures that are detrimental to the public interest; and

Section 0.8 WHEREAS, the Parties hereto desire to avoid and eliminate the circumstances giving rise to the aforesaid potential duplications and toward that end have established a Territorial Boundary Line to delineate their respective retail territorial areas in a portion of St. Lucie County; and

Section 0.9 WHEREAS, the PSC is empowered by the legislature of the State of Florida, pursuant to section 366.04(3)(a), Florida Statutes, to approve territorial agreements between natural gas utilities; and

Section 9.12 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 hereto, subject to and upon the terms and conditions herein set forth, do hereby agree as follows:

**ARTICLE I
DEFINITIONS**

Section 1.1 Natural Gas As used herein, the term "Natural Gas" shall mean: natural gas, manufactured gas, liquefied gas with air admixture, or a similar gaseous substance furnished to the public by pipeline.

Section 1.2 FFUA Territorial Area As used herein, the term "FFUA Territorial Area" shall mean the area so labeled on Exhibit "A" of this Agreement.

Section 1.3 Company Territorial Area As used herein, the term "Company Territorial Area" shall mean the area so labeled on Exhibit "A" of this Agreement.

Section 1.4 Existing Customers As used herein, the term "Existing Customers" shall mean those natural gas customers of either Party taking service from that Party on the effective date of this Agreement, but not including the Extra-territorial Customers identified in Exhibit "B."

Section 1.5 Point of Use As used herein, the term Point of Use shall mean the end-use natural gas facilities of a customer, as distinct from the point of connection or point of metering.

Section 1.6 Extra-territorial Customers As used herein, the term "Extra-territorial Customers" shall mean those natural gas customers whose Points of Use are in the Territorial Area of COMPANY, but who are receiving service from FPUA on the effective date of this Agreement. Such customers are identified in Exhibit "B" of this Agreement.

Section 1.7 New Customers As used herein, the term "New Customers" shall mean those consumers applying for natural gas service for a Point of Use in the Territorial Area of either Party during the term of this Agreement.

Section 1.8 Territorial Area As used herein, the term "Territorial Area" shall mean either or both, where appropriate, the FPUA Territorial Area or the Company Territorial Area.

Section 1.2 Territorial Boundary Line As used herein, the term "Territorial Boundary Line" shall mean the boundary lines so labeled, designating the boundary between the areas shown on the maps on Exhibit "A" of this Agreement.

The western terminus of the territorial boundary line shall be the intersection of Midway Road and Hawley Road. Areas west of a line running due north and south through that terminus are not affected by this agreement.

The eastern terminus of the territorial boundary line is the point at which a line extending eastward from the east-west Canal R/W lying south of Easy Street intersects the Intracoastal Waterway, at the northern boundary of the H.D. Gray parcel as depicted on the attached map. Any areas to the east of the Intracoastal Waterway are not affected by this agreement.

Section 1.10 Through Pipelines As used herein, the term "Through Pipelines" shall mean pipelines traversing the Territorial Area of the other Party but not serving customers within that Territorial Area.

**ARTICLE II
RETAIL NATURAL GAS SERVICE**

Section 2.1 In General Except as otherwise specifically provided herein, FPUA shall have the exclusive authority to furnish retail natural gas service to all its Existing Customers and all New Customers within the FPUA Territorial Area, and COMPANY shall have the exclusive authority to furnish retail natural gas service to all its Existing Customers and all New Customers in the Company Territorial Area. The Territorial Boundary Line shall not be affected by any change that may occur in the corporate limits of any municipality or county.

Section 2.2 Transfer of Extra-territorial Customers All Extra-territorial Customers are listed on Exhibit "B" to this Agreement. Subject to the provisions of Sections 2.3, 2.4 and 4.1, and in order to minimize inconvenience to the Extra-territorial Customers, FPUA agrees to transfer the Extra-territorial Customers listed on Exhibit "B" to COMPANY as soon as COMPANY is capable of providing service to such customers.

Section 2.3 Transfer of Facilities from FPUA to COMPANY
In order to facilitate the transfer of Extra-territorial Customers from FPUA to COMPANY, FPUA agrees to transfer to COMPANY all of its gas mains and related equipment listed in Exhibit "C" of this agreement, subject to the provisions of

Sections 2.2, 2.4, and 4.1.

Section 2.4 Compensation Subject to the provisions of Sections 2.2, 2.3 and 4.1, all Extra-territorial Customers subject to transfer pursuant to Section 2.2, together with the service facilities subject to transfer pursuant to Section 2.3, shall be transferred in the following manner and for the following considerations:

a) At the time of transfer of the customers and associated service facilities, COMPANY shall pay FPUA in cash the amount of \$115,000.00.

b) In addition to any compensation due FPUA pursuant to Section 2.4a, COMPANY will pay FPUA at the time of the facility transfer the amount of \$34,799.94 as compensation for the loss of revenues from such Extra-territorial Customers.

c) With the transfer, FPUA will make, execute and deliver to COMPANY a conveyance, deed or other instrument of transfer as is appropriate in order to convey all rights, title and interest of FPUA in any facilities, rights-of-way, easements, road permits, or other rights necessary to serve the transferred Extra-territorial Customers.

d) When customers are transferred, they shall not suffer hardship due to different deposit requirements. When possible, the deposits of a transferred customer will be transferred to COMPANY. Such deposit transfers will be completed as soon as possible after the customer has paid all outstanding amounts owed to FPUA for gas utility services. When the existing deposit is

less than that normally required by COMPANY, the transferred deposit will be accepted as adequate. When the existing deposit is greater than that which normally is required by COMPANY, the excess deposit amount will be refunded by COMPANY.

Section 2.5 Service to New Customers The Parties agree that neither of them will knowingly serve or attempt to serve any New Customers whose Point of Use is located within the Territorial Area of the other Party.

In the event that a New Customer or prospective New Customer requests or applies for service from either Party, but the customer's Point of Use is located in the Territorial Area of the other Party, the Party receiving such a request or application shall refer the New Customer or prospective New Customer to the other Party with citation to this Agreement as approved by the PSC.

ARTICLE III OPERATION AND MAINTENANCE

Section 3.1 Facilities to Remain With the exception of the gas mains and related facilities listed in Exhibit "C" of this Agreement, all Through Pipelines, gate stations, regulators, gas mains and related equipment of either Party shall not be subject to transfer or removal hereunder; PROVIDED, HOWEVER, that each Party shall operate and maintain said lines and facilities in such manner as to minimize any interference with the operations of the other Party.

ARTICLE IV
PREREQUISITE APPROVAL

Section 4.1 PSC Approval The provisions and the Parties' performance of this Agreement are subject to the regulatory authority of the PSC, and appropriate approval by that body of the provisions of this Agreement shall be an absolute condition precedent to the validity, enforceability and applicability hereof. This Agreement shall have no effect whatsoever until that approval has been obtained, and the date of expiration of the appeal period following issuance of the Order granting PSC approval of this Agreement shall be deemed to be the effective date of this Agreement. Any proposed modification to this Agreement shall be submitted to the PSC for approval. In addition, the Parties agree to jointly petition the PSC to resolve any dispute concerning the provisions of this Agreement or the Parties' performance of this Agreement.

Section 4.2 Liability in the Event of Disapproval In the event approval pursuant to Section 4.1 is not obtained, neither Party will have any claim against the other arising under this Agreement.

ARTICLE V
DURATION

Section 5.1 This Agreement shall continue and remain in effect for a period of fifteen (15) years from the date of expiration of the appeal period following issuance of the Order approving this Agreement. This Agreement shall automatically be extended for a period of fifteen (15) years unless either Party

gives written notice of intent to terminate at least one (1) year prior to the date of termination herein.

ARTICLE VI
CONSTRUCTION OF AGREEMENT

Section 6.1 Other Natural Gas Utilities Nothing in this Agreement is intended to define, establish or affect in any manner the rights of either Party hereto relative to any other natural gas utility not a party to this Agreement with respect to the furnishing of natural gas service.

ARTICLE VII
MISCELLANEOUS

Section 7.1 Negotiations Whatever terms or conditions may have been discussed during the negotiations leading up to the execution of this Agreement, the only ones agreed upon are those set forth herein, and no alteration, modification, enlargement or supplement to this Agreement shall be binding upon either of the Parties hereto unless the same shall be in writing, attached hereto, signed by both Parties, and approved by the PSC.

Section 7.2 Successors and Assigns Nothing in this Agreement, expressed or implied, is intended nor shall be construed to confer upon or give to any person or corporation, other than the Parties hereto, any right, remedy or claim under or by reason of this Agreement or any provision or conditions hereof; and all of the provisions, representations, covenants and conditions herein contained shall inure to the sole benefit of, and shall be binding only upon, the Parties hereto and their respective representatives, successors and assigns.


Section 7.1 Notices Notices given hereunder shall be deemed to have been given to the FPUA if mailed by certified mail, postage prepaid, to: Director of Utilities, Fort Pierce Utilities Authority, P.O. Box 3191, Fort Pierce, Florida 34948, and to the COMPANY if mailed by certified mail, postage prepaid, to: Mr. Jack Langer, 955 East 25th Street, Hialeah, Florida 33013-3498. Such address to which such notice shall be mailed may be, at any time, changed by designating such new address and giving notice thereof in writing in the manner as herein provided.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed in duplicate in their respective corporate names and their corporate seals affixed by their duly authorized officers on the day and year first written above.

ATTEST:

FORT PIERCE UTILITIES AUTHORITY

By


Chairman

(SEAL)

ATTEST:

CITY GAS COMPANY OF FLORIDA

By David Ranger
Senior Vice President

(SEAL)

APPROVED AS TO LEGALITY OF FORM:

By [Signature]
Legal Counsel to Fort Pierce Utilities Authority

By Joseph A. McMillin
Legal Counsel to City Gas Company of Florida

TERRITORIAL AGREEMENT EXHIBIT B — FPSC DOCKET No. 931023-GU

Account No.	Name/Address	Service	Type
5620020001	John Struys 111 Beach Avenue Port St. Lucie, FL 34952	111 Beach Ave.	
5620030001	Chris Davies 708 NE Camino Street Port St. Lucie, FL 34952	708 NE Camino St.	
5620061001	Wynne Building Corporation d/b/a Spanish Lakes 8000 S. Federal Highway Port St. Lucie, FL 34952	157 Camino Del Rio	Pool
5620100001	Wynne Building Corporation d/b/a Spanish Lakes 8000 S. Federal Highway Port St. Lucie, FL 34952	8200 S. Federal Hwy	Laundry
5620110001	Wynne Building Corporation d/b/a Spanish Lakes 8000 S. Federal Highway Port St. Lucie, FL 34952	8200 S. Federal Hwy./East	
5620120001	Wynne Building Corporation d/b/a Sizzler 8000 S. Federal Highway Port St. Lucie, FL 34952	7950 S. Federal Hwy.	
5620130001	Wynne Building Corporation d/b/a Best Western Motel 8000 S. Federal Highway Port St. Lucie, FL 34952	7900 S. Federal Hwy.	LR/NO
5620140001	Wynne Building Corporation d/b/a Best Western Motel 8000 S. Federal Highway Port St. Lucie, FL 34952	7900 S. Federal Hwy.	LR/NO
5620150001	Wynne Building Corporation d/b/a Best Westrn Motel 8000 S. Federal Highway Port St. Lucie, FL 34952	7900 S. Federal Hwy.	Pool

NATURAL GAS METERS INSTALLED/PORT ST. LUCIE

SIZE	QUANTITY
175	2
415	3
750	1
1000	2
3000	1

MAIN LINE AND SERVICE LINES INSTALLED IN PORT ST. LUCIE (SOUTH OF RIO MAR DRIVE)

LOCATION/DESCRIPTION	LINEAR FEET	PIPE DIAMETER
Extension to Spanish Lakes Location #1 - Lake Front Location #2 - Rio Mar Location #3 - U.S. 1 Location #4 - Prima Vista	3,338	4-inch
2-inch P.E. Extension to pool and clubhouse at Spanish Lakes (West side U.S. 1)	2,082	2-inch
Entrada, South Federal Highway, Beach Avenue and Lake Front	1,180 16 8	4-inch 2-inch 2-inch
Prima Vista to Banyan	2,000	4-inch
Rio Mar to Spanish Lakes	965 274 12	4-inch 2-inch 2-inch
Service Lines to Spanish Lakes; club house and pool from Mediterranean Blvd. South	90 356	2-inch 1-inch

TERRITORIAL AGREEMENT EXHIBIT C — FPSC DOCKET NO. 931023-GU

Installed 2-inch P.E. along Mediterranean Blvd. South	897	2-inch
Service Line to Sizzler Steakhouse	175	1-inch
	26	1-inch
Service to South Building, Best Western	190	1-inch
	10	1-inch
Mediterranean West	60	2-inch
2-inch at Mediterranean West	2,667	2-inch