

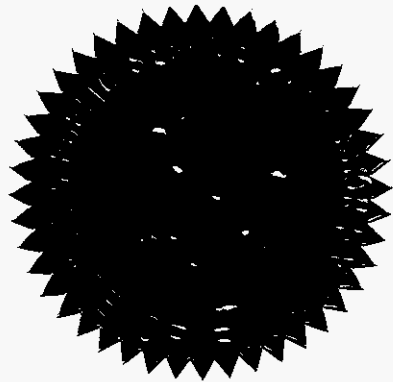
BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

DOCKET NO. 080318-GU

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In the Matter of:

PETITION FOR RATE INCREASE BY
PEOPLES GAS SYSTEM.
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PROCEEDINGS: PREHEARING

BEFORE: COMMISSIONER NATHAN A. SKOP
 PREHEARING OFFICER

DATE: Monday, February 23, 2009

TIME: Commenced at 1:30 p.m.
 Concluded at 1:51 p.m.

PLACE: Betty Easley Conference Center
 Room 148
 4075 Esplanade Way
 Tallahassee, Florida

REPORTED BY: JANE FAUROT, RPR
 Official FPSC Reporter
 (850) 413-6732

DOCUMENT NUMBER-DATE
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1 PARTICIPATING:

2 JOHN W. MCWHIRTER, JR., ESQUIRE, Florida Industrial
3 Gas Users, C/o McWhirter Law Firm, Post Office Box 3350, Tampa,
4 Florida 33601-3350, representing Florida Industrial Gas Users.

5 ANSLEY WATSON, JR., ESQUIRE, Macfarlane Law Firm,
6 Post Office Box 1531, Tampa, Florida 33601-1531, representing
7 Peoples Gas System.

8 CHARLES J. REHWINKEL, ESQUIRE, Office of Public
9 Counsel, c/o the Florida Legislature, 111 W. Madison St., #812,
10 Tallahassee, Florida 32399-1400, representing the Citizens of
11 the State of Florida.

12 CAROLINE M. KLANCKE, ESQUIRE, and KATHERINE E.
13 FLEMING, ESQUIRE, FPSC General Counsel's Office, 2540 Shumard
14 Oak Boulevard, Tallahassee, Florida 32399-0850, representing
15 the Commission Staff.

16 MARY ANN HELTON, ESQUIRE, FPSC General Counsel's
17 Office, 2540 Shumard Oak Boulevard, Tallahassee, Florida
18 32399-0850, representing the Commission Staff.

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P R O C E E D I N G S

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2 **COMMISSIONER SKOP:** Good afternoon. I'd like to call
3 this prehearing to order. Commissioner Skop presiding.

4 And if staff could please read the notice.

5 **MS. KLANCKE:** By notice issued by the Commission
6 Clerk, this time and place has been set for a prehearing in
7 Docket Number 080318-GU.

8 **COMMISSIONER SKOP:** Thank you.

9 Could we please take appearances.

10 **MR. WATSON:** May it please the Commissioner. I'm
11 Ansley Watson, Jr. of Macfarlane, Ferguson, and McMullen, P.O.
12 Box 1531, Tampa, Florida 33601, appearing on behalf of Peoples
13 Gas System.

14 **MR. REHWINKEL:** Charles Rehwinkel, Office of the
15 Public Counsel, on behalf of the Citizens of Florida.

16 **MR. MCWHIRTER:** John McWhirter on behalf of the
17 Florida Industrial Gas Users Group.

18 **MS. KLANCKE:** And Katherine Fleming and Caroline
19 Klancke on behalf of the Commission.

20 **MS. HELTON:** And Mary Anne Helton, advisor to the
21 Commission.

22 **COMMISSIONER SKOP:** Thank you.

23 I guess we'll take up preliminary matters. And,
24 Staff, are there any preliminary matters that we need to
25 address before we get to the draft prehearing order?

1 **MS. KLANCKE:** Commissioner, there are currently two
2 pending requests for confidential classification which will be
3 addressed by separate order. To my knowledge, there are no
4 other preliminary matters.

5 **COMMISSIONER SKOP:** Thank you. At this point we're
6 going to proceed through the draft prehearing order. And as we
7 go through the order, I'll identify the sections, and if the
8 parties could please let me know if there are any corrections
9 or changes that need to be made. And we may move quickly
10 through most of this, so please speak up or forever hold your
11 peace, if you don't have a change or correction.

12 Section I, case background.

13 Hearing no objections, Section II, conduct of
14 proceedings.

15 Section III, jurisdiction.

16 Section IV, procedure for handling confidential
17 information. And I believe staff has mentioned the two pending
18 motions.

19 Section V, prefiled testimony, exhibits; witnesses.
20 Are the parties willing to shorten or dispense with the witness
21 summaries of testimony? And, if not, five minutes are
22 typically provided, so if the parties could briefly comment on
23 that.

24 With respect to shortening or dispensing of the
25 witness summary testimony, are the parties willing to shorten

1 or dispense with the witness summaries of testimony?

2 **MR. WATSON:** We could do that.

3 **COMMISSIONER SKOP:** I'm not trying to -- I'm just
4 trying to seek to --

5 **MR. WATSON:** Let me ask.

6 **MR. REHWINKEL:** From the Public Counsel's standpoint,
7 to the extent we don't have any further discussions about
8 stipulated witnesses, I think we probably would like to have no
9 more than five minutes.

10 **COMMISSIONER SKOP:** Okay.

11 Mr. McWhirter.

12 **MR. McWHIRTER:** Are you talking about opening
13 statements?

14 **COMMISSIONER SKOP:** No. Just basically for each
15 witness summarizing their testimony.

16 **MR. McWHIRTER:** I don't have any witnesses, so I
17 won't speak to that.

18 **COMMISSIONER SKOP:** All right. I just think in the
19 interest of procedural, I think we will just move forward
20 hearing the concern from OPC that we'll allow witnesses to have
21 five minutes to briefly summarize their testimony, and that
22 will apply for each of the respective parties.

23 And, again, there have been witnesses, to my
24 understanding, staff, that have been fully stipulated, and
25 those are in the process of getting concurrence so that we can

1 release those witnesses, should that be approved by each of the
2 respective Commissioners. And I guess staff is in that process
3 of confirming.

4 And, also, too, any other witnesses that the parties
5 may wish to stipulate, please bring that to our attention or
6 staff's attention at this time, or in the future. We'll deal
7 with those on a case-by-case basis.

8 **MR. WATSON:** All right. I'd like to bring up one
9 right now, and that's Alan Felsenthal.

10 **MR. REHWINKEL:** Yes. We agree that we could
11 stipulate him, assuming that his deposition and testimony goes
12 in, unless another entity wants to have him on.

13 **MS. KLANCKE:** Yes. His deposition transcript and
14 exhibits to his deposition will be moved into the record as
15 part of staff's composite exhibit. If you would provide me
16 with just a moment to confer with staff to make sure.

17 **COMMISSIONER SKOP:** Will do.

18 **MS. KLANCKE:** Commissioner, at this time staff does
19 not have any objection to the stipulation of this witness;
20 however, we will check and we will confer with the
21 Commissioners to ensure that they have no questions for Witness
22 Felsenthal.

23 **COMMISSIONER SKOP:** Thank you.

24 And then also to Mr. McWhirter, he is one of the
25 intervening parties, so I think we need to ask his concurrence

1 whether he would be willing to stipulate to that witness.

2 **MR. McWHIRTER:** Yes, sir.

3 **COMMISSIONER SKOP:** All right. Thank you.

4 Moving forward, Section VII, basic positions. Any
5 comments or concerns?

6 Moving on to Section VIII, issues and positions.

7 It's my understanding there's no dispute with respect to the
8 issues as currently framed. Okay. If the parties would like
9 to edit their positions, staff would suggest that the parties
10 work directly with staff so that positions can be incorporated
11 into the final prehearing order, should there be any changes
12 necessary. And with respect to any additional stipulations, I
13 would also ask the parties to work directly with staff to see
14 if any additional stipulations could be achieved so that they
15 could also be reflected in the final prehearing order.

16 Moving on to Section IX, exhibit list. Staff?

17 **MS. KLANCKE:** Staff would like to note for the record
18 that we will prepare a Comprehensive Exhibit List consisting of
19 all of the prefiled exhibits for the purposes of numbering and
20 identifying the exhibits at the hearing. Staff will provide
21 the exhibit list to the parties as soon as possible. Staff
22 also intends to prepare a proposed stipulation exhibit composed
23 of certain discovery responses and deposition transcripts which
24 will be provided to the parties in advance of the hearing.

25 **COMMISSIONER ARGENZIANO:** Thank you.

1 Section X, proposed stipulations. My understanding
2 is there are proposed stipulations on the following issues,
3 Issue 2, 3, 16, 19, 21, 22, 27, 45, 47, 48, 51, 52, 53, 56, 58
4 and 59, is that correct?

5 **MS. KLANCKE:** That is correct.

6 **COMMISSIONER SKOP:** Thank you.

7 And pending motions. Staff.

8 **MS. KLANCKE:** There are no pending motions at this
9 time.

10 **COMMISSIONER SKOP:** Moving on to Section XII, pending
11 confidentiality motions. I believe there's two motions pending
12 that will be addressed via separate order. Is that correct?

13 **MS. KLANCKE:** That is correct.

14 **COMMISSIONER SKOP:** Thank you.

15 Section XIII, post-hearing procedures. I'd like to
16 ask the parties to adhere to the typical 50-word opening
17 statement and 40 pages for the post-hearing briefs. Is
18 everyone comfortable with that? Okay. Show it done.

19 For Section XIV, rulings, I guess I'd like to also
20 see opening statements limited to ten minutes, if the parties
21 have no objection to that.

22 Just looking to staff, any other matters that we need
23 to consider?

24 **MS. KLANCKE:** Staff has no further issues at this
25 time.

1 **MR. WATSON:** Commissioner Skop, I'd like to go back
2 to the listing of issues. I forget which section that is,
3 because --

4 **COMMISSIONER SKOP:** I believe that would be
5 Section VIII.

6 **MR. WATSON:** Section VIII. And this would be on
7 what -- it would start on what I believe is Page 11 of what
8 you're looking at. It would be Issue 4, and then on the next
9 page, Issue 6. Both of these issues deal with potential
10 adjustments to plant-in-service. And our feeling is that they
11 don't need to be individually highlighted because they're
12 subsumed in Issue 5, which is should any adjustments be made to
13 projected plant accumulated depreciation and depreciation
14 expense.

15 **COMMISSIONER SKOP:** Let me stop you there just for
16 the record. Just let the record reflect that we're looking at
17 the draft prehearing order on Pages 11 and 12 for Issues 4 and
18 I believe you said 6.

19 **MR. WATSON:** Six, yes.

20 **COMMISSIONER SKOP:** As currently framed. And if you
21 could take those issues one-by-one, I think it would be better
22 so that we could hear from the respective parties that may have
23 some comments regarding those. So if you would start again
24 with Issue 4.

25 **MR. WATSON:** Issue 4, the issue as stated is what are

1 the appropriate unit costs for projected plant additions. And
2 we believe this should be deleted as an issue, or as a
3 separately identified issue, because it's not really going to
4 provide any information with which to resolve the issues in
5 this case. And in any event, it is subsumed in Issue 5, which
6 is should any adjustments be made to projected plant.

7 **MR. REHWINKEL:** Commissioner Skop, this is Charles
8 Rehwinkel with the Public Counsel's Office. This issue in some
9 form or another was originally raised by our office. And as
10 the process of discovery has proceeded forward, the nature of
11 the issue has changed such that we agree that any remaining
12 adjustments that would be made under what we originally thought
13 was the relevant issue can be taken up and subsumed in Issue 5.
14 So unless there's another party that has a concern about that,
15 we can agree that it can be dropped.

16 **COMMISSIONER SKOP:** Mr. McWhirter.

17 **MR. MCWHIRTER:** I have no objection.

18 **COMMISSIONER SKOP:** Show it done based on the
19 comments of the stipulations by the parties that Issue 4 will
20 be deleted from the proceeding.

21 **MS. KLANCKE:** Commissioner Skop, just one comment.
22 We have had the opportunity to confer with staff, and staff has
23 no objections to the omission of these two issues.

24 **COMMISSIONER SKOP:** And my apologies, I should look
25 to staff, but I'm glad staff sees it my way.

1 Moving on to Issue 6, the same issue that could be
2 subsumed in Issue 5. And I would just like to hear a brief
3 statement, again, from Peoples Gas and then also from OPC
4 whether the same stipulation could be achieved.

5 **MR. WATSON:** Well, I think you've just stated it, and
6 that is that the issue would be an adjustment to rate base, if
7 it is made, which is subsumed in Issue Number 5.

8 **COMMISSIONER SKOP:** Okay. And OPC has no objection
9 to that?

10 **MR. REHWINKEL:** We do not.

11 **COMMISSIONER SKOP:** Okay. Mr. McWhirter?

12 **MR. MCWHIRTER:** No position.

13 **COMMISSIONER SKOP:** All right. Staff.

14 **MS. KLANCKE:** Although Staff has no objection, we
15 believe that this issue -- we concur that this issue could be
16 subsumed in Issue 5.

17 **COMMISSIONER SKOP:** Okay. Show it done. Issue
18 6 will be deleted and to be subsumed in Issue 5.

19 Any other comments or concerns regarding the issues
20 as currently framed by the parties?

21 **MR. REHWINKEL:** Commissioner, I would like to state
22 for the record, prior to the prehearing conference starting,
23 Public Counsel and the company were sitting down in an effort
24 to further refine and resolve certain pending issues, and I
25 think we have made some progress. But I want to apologize to

1 you for being a few minutes late to the prehearing. We felt
2 like it was fruitful, but I should have been on time.

3 **COMMISSIONER SKOP:** I appreciate that. But more so,
4 and I think our staff would, as well as all of my fellow
5 colleagues, the more stipulations that can be achieved, those
6 are worth waiting on. So, again, if the parties on a
7 forward-going basis find the ability to stipulate to the
8 remaining issues, or some of the issues, that would be greatly
9 appreciated, I think, by my colleagues and staff. So I would
10 encourage the parties to look for latitude, and compromise, and
11 consensus on issues that otherwise could be stipulated.

12 Staff.

13 **MS. KLANCKE:** With respect to how the stipulation of
14 Issues 4 and 6 has affected the parties' positions, if at all,
15 on Issue 5, if the parties could be proactive in providing
16 staff with an amended or revised position with respect to that
17 Issue 5, encompassing in a more macro way their revised
18 position, that would be appreciated.

19 **MR. REHWINKEL:** I think at this time we don't have
20 any, because we are waiting on some late-filed exhibits that I
21 know the company is working to quickly provide. But until
22 then, we won't be able to provide any additional numerical
23 position.

24 **MR. WATSON:** We have several changes to Peoples'
25 positions as set forth issue-by-issue in the draft prehearing

1 order that we didn't want to take the time in this proceeding
2 to go through, but we will obviously get those to staff as
3 quickly as we can.

4 **COMMISSIONER SKOP:** Well, addressing that issue, any
5 changes in position, again, staff has ask requested -- it's for
6 their convenience for that to be submitted to staff by the
7 parties by the close of business on February 24th, which I
8 believe is tomorrow.

9 So would Peoples be able to accommodate that as well
10 as OPC on any changes?

11 **MR. WATSON:** Yes, sir.

12 **COMMISSIONER SKOP:** Okay. And that is just for
13 Staff's administrative ability to do what they need to do to
14 meeting the hearing dates and getting the final prehearing
15 order out.

16 So, just in summation, Issue 4 has been subsumed in
17 Issue 5 and deleted, Issue 6 has been subsumed into Issue 5 and
18 deleted, and that revisions to the positions of the parties
19 will be submitted to Staff by close of business February 24th,
20 2009, which is tomorrow at 5:00.

21 Staff, are there any other matters that we need to
22 address before we adjourn?

23 **MS. FLEMING:** (Indicating no.)

24 **COMMISSIONER SKOP:** Any other concerns from the
25 parties?

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Hearing none, we are adjourned.

(The prehearing concluded at 1:51 p.m.)

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STATE OF FLORIDA)

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CERTIFICATE OF REPORTER

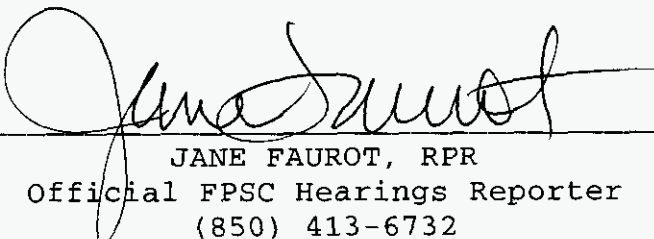
COUNTY OF LEON)

I, JANE FAUROT, RPR, Chief, Hearing Reporter Services Section, FPSC Division of Commission Clerk, do hereby certify that the foregoing proceeding was heard at the time and place herein stated.

IT IS FURTHER CERTIFIED that I stenographically reported the said proceedings; that the same has been transcribed under my direct supervision; and that this transcript constitutes a true transcription of my notes of said proceedings.

I FURTHER CERTIFY that I am not a relative, employee, attorney or counsel of any of the parties, nor am I a relative or employee of any of the parties' attorney or counsel connected with the action, nor am I financially interested in the action.

DATED THIS 23rd day of February, 2009.



JANE FAUROT, RPR
Official FPSC Hearings Reporter
(850) 413-6732