

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for rate increase by Florida
Public Utilities Company.

DOCKET NO. 080366-GU
ORDER NO. PSC-09-0588-PCO-GU
ISSUED: August 31, 2009

The following Commissioners participated in the disposition of this matter:

MATTHEW M. CARTER II, Chairman
LISA POLAK EDGAR
KATRINA J. McMURRIAN
NANCY ARGENZIANO
NATHAN A. SKOP

ORDER APPROVING CORPORATE UNDERTAKING AS APPROPRIATE SECURITY FOR
BOTH THE INTERIM AND IMPLEMENTED PROPOSED AGENCY ACTION RATES

BY THE COMMISSION:

Background

This proceeding commenced on December 17, 2008, with the filing of a petition for a permanent rate increase by Florida Public Utilities Company – Gas Division (FPUC or Company). The Company is engaged in business as a public utility providing distribution and transportation of gas as defined in Section 366.02, Florida Statutes (F.S.). FPUC serves gas customers through two divisions: the Central Florida Division consisting of portions of Seminole, Marion and Volusia Counties, and the South Florida Division consisting of portions of Palm Beach, Broward and Martin Counties. Together, FPUC provides service to over 51,000 residential and commercial customers.

FPUC requested an increase in its retail rates and charges to generate \$9,917,690 in additional gross annual revenues. FPUC chose to have its petition for rate relief processed under the Proposed Agency Action (PAA) procedure authorized by Section 366.06(4), F.S.

FPUC also requested an interim rate increase in its retail rates and charges. We granted an annual interim rate increase of \$984,054 in Order No. PSC-09-0123-PCO-GU, issued March 3, 2009, for meter readings on or after March 12, 2009, with such rates being protected by a corporate undertaking.

By Proposed Agency Action Order No. PSC-09-0375-PAA-GU (PAA Order), issued May 27, 2009, we proposed to grant a final rate increase of \$8,496,230, for meter readings on or after June 4, 2009. On June 17, 2009, the PAA Order was timely protested by the Office of Public Counsel, who had intervened.

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FPSC-COMMISSION CLERK

FPUC has implemented the rates approved in the PAA Order and requests that it be allowed to protect such rates, which are subject to refund, through a corporate undertaking. Section 366.06(4), F.S., states that after five months following the commencement date of December 17, 2008, the utility may implement its requested rates¹ under bond, escrow, or corporate undertaking.

This Order addresses what is the appropriate security to protect both the interim rates and the PAA Rates and whether FPUC can support a corporate undertaking to protect these rates which are subject to refund. The Company has collected approximately three months of interim rates. Pursuant to Section 366.04(4), F.S., we must render our final decision by February 17, 2010 (within eight months of the date the protest is filed). Therefore, it appears that FPUC will collect the PAA rates for approximately eight months. We have jurisdiction pursuant to Sections 366.06(4), and 366.071, F.S.

Appropriate Security

FPUC has requested that all funds collected subject to refund be secured by a corporate undertaking. The criteria for a corporate undertaking include sufficient liquidity, ownership equity, profitability, and interest coverage to guarantee any potential refund. Because the Company may collect up to \$6 million dollars combined from the interim rates (approximately three months), and the implemented PAA rates (approximately eight months), we have reviewed the Company's financial statements to determine if FPUC can support a corporate undertaking in the amount of \$6 million. The 2006, 2007, and 2008 financial statements for FPUC's consolidated operations were used to determine the financial condition of the Company.

This analysis shows that FPUC has been deficient with respect to liquidity measures. In addition, the amount potentially subject to refund is more than one and a half times greater than the average annual net income over the three-year review period. However, the weakness in these measures is offset by adequate interest coverage and sufficient equity capitalization. FPUC's interest coverage ratio has been relatively stable over the three-year period and its average equity ratio has been stable at an average of approximately 45 percent. Based on this analysis, we find that FPUC has adequate resources to support a corporate undertaking in the amount of \$6 million. Acceptance of this corporate undertaking is conditioned upon the written guarantee of the consolidated entity.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that the security to guarantee the amount collected subject to refund for the interim rates and implemented proposed agency action rates shall be in the form of a corporate undertaking guaranteed by Florida Public Utilities Company, the consolidated entity. It is further

¹ We have interpreted this provision to allow a utility to implement something less than its proposed rates such as the rates approved in the PAA Order (See Order No. PSC-95-1126-FOF-WS, issued September 7, 1995, in Docket No. 941108-WS, In re: Application for a rate increase in Collier County by Florida Cities Water Company – Golden Gate Division.

ORDERED that this docket shall remain open pending the final resolution of the requested rate increase.

By ORDER of the Florida Public Service Commission this 31st day of August, 2009.

ANN COLE
Commission Clerk

By: *Dorothy E. Menasco*
Dorothy E. Menasco
Chief Deputy Commission Clerk

(S E A L)

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NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

Any party adversely affected by the Commission's procedural or intermediate action in this matter may request: (1) reconsideration within 10 days pursuant to Rule 25-22.0376, Florida Administrative Code, if issued by a Prehearing Officer; (2) reconsideration within 15 days pursuant to Rule 25-22.060, Florida Administrative Code, if issued by the Commission; or (3) judicial review by the Florida Supreme Court, in the case of an electric, gas or telephone utility, or the First District Court of Appeal, in the case of a water or wastewater utility. A motion for reconsideration shall be filed with the Office of Commission Clerk, in the form prescribed by Rule 25-22.060, Florida Administrative Code. Judicial review of a preliminary, procedural or intermediate ruling or order is available if review of the final action will not provide an adequate remedy. Such review may be requested from the appropriate court, as described above, pursuant to Rule 9.100, Florida Rules of Appellate Procedure.