

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Joint petition for approval of territorial agreement in Volusia County by Peoples Gas System and Florida Public Utilities Company. | DOCKET NO. 110192-GU
ORDER NO. PSC-11-0404-PAA-GU
ISSUED: September 23, 2011

The following Commissioners participated in the disposition of this matter:

ART GRAHAM, Chairman
LISA POLAK EDGAR
RONALD A. BRISÉ
EDUARDO E. BALBIS
JULIE I. BROWN

NOTICE OF PROPOSED AGENCY ACTION
AND ORDER APPROVING THE TERRITORIAL AGREEMENT BETWEEN FLORIDA
PUBLIC UTILITIES COMPANY AND PEOPLES GAS SYSTEM

BY THE COMMISSION:

NOTICE is hereby given by the Florida Public Service Commission that the action discussed herein is preliminary in nature and will become final unless a person whose interests are substantially affected files a petition for a formal proceeding, pursuant to Rule 25-22.029, Florida Administrative Code (F.A.C.).

Case Background

Pursuant to Section 366.04(3)(a), Florida Statutes (F.S.), and Rule 25-7.0471, F.A.C., Florida Public Utilities Company (FPUC) and Peoples Gas System (Peoples) (Petitioners, jointly) filed a May 27, 2011 joint petition for approval of a territorial agreement between the Petitioners related to the provision of natural gas service in the eastern portion of Volusia County. Petitioners own and operate natural gas distribution facilities in various portions of Florida. Peoples operates a natural gas distribution system primarily in the northern portion of Volusia County with its greatest concentration of customers in the Daytona Beach area. FPUC operates a natural gas distribution system in the southern portion of Volusia County, with the greatest concentration of customers in the New Smyrna Beach area.

The Petition states that, in mid-2010, Peoples became aware that FPUC was in negotiations with Florida Gas Transmission Company, LLC (FGT) for the purchase of an FGT lateral transmission line. This line extended south from the FGT mainline in northern Volusia County through a portion of the areas currently identified as the service territory of Peoples, and continues generally south-southeast through the County to the New Smyrna Beach area currently identified as FPUC's service territory. The Petition indicates that FPUC is interested in obtaining the FGT lateral line in connection with planned improvements to its New Smyrna

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Beach distribution system, and does not intend to duplicate any existing Peoples facilities used to serve customers in the northern areas of Volusia County where Peoples operates. As a result of the discussions between Petitioners, a Territorial Agreement was ultimately made and submitted to us for approval. There is no existing territorial agreement between the Petitioners in Volusia County.

We have jurisdiction over the matter pursuant to Section 366.04, F.S.

Territorial Agreement

On May 27, 2011, Peoples and FPUC filed a Joint Petition for us to approve their Volusia County Territorial Agreement. Subsequent to the May 27, 2011 filing, Petitioners filed a July 14, 2001 Amended and Restated Agreement (Agreement), recognizing that FPUC purchased (as of December 2010) from FGT a lateral transmission line in Volusia County extending south-southeast towards its service territory, through an area that Peoples currently serves. The Agreement acknowledged our authority, pursuant to Section 366.04(3)(a), F.S., to approve territorial agreements. Pursuant to Rule 25-7.0471 F.A.C., it was also noted that the Petitioners have entered into the Agreement to avoid any unnecessary and uneconomic duplication of natural gas facilities which would be contrary to our policies, and detrimental to the interests of their customers and the general public. The Agreement includes maps of the agreed upon area along with a written territorial description showing Petitioners' respective service areas. The Agreement basically divides the eastern part of Volusia County in half by a natural boundary line known as the "Spruce Creek Boundary," with Peoples' territory to the north and FPUC's territory to the south.

According to the Petition, Peoples and FPUC shall have the authority to serve all customers within their respective designated areas. Also, Peoples and FPUC agree that each will not provide, offer to serve, or use equipment located in the service area of the other Party or to provide natural gas service to existing or potential customers within the service area reserved to the other Party. However, a circumstance could occur when good engineering practices or economic constraints indicate it is more reasonable for any small service area and/or future natural gas customer within one Party's service area to be served by the other Party. In that situation, the Agreement provides for the other Party to serve upon our approval.

Petitioners propose that, once our order approving the Agreement becomes final and effective, it will be in effect until its termination or modification is mutually agreed upon and approved by us. Also, the Agreement states that termination or modification of the Agreement may also result if mandated by a governmental entity or court with appropriate jurisdiction. The Agreement provides for the Parties to review the Agreement's status prior to second anniversary of its effective date, and no more than every fifth anniversary thereafter, with joint status reports of the Agreement to be filed with us.

FPUC serves a total of 11,160 customers in Volusia County; 4,275 customers are located in the Southeastern portion of Volusia County, south of the Spruce Creek Boundary. The remaining FPUC customers are in the Southwestern portion of Volusia County. All of Peoples 7,351 active customers are located in Northeastern Volusia County, north of the Spruce Creek

Boundary. The Agreement also noted that it does not provide for the transfer of any existing customers or facilities. Therefore, no existing customers will be affected by this Order approving the Agreement.

We find that the Amended Volusia County Territorial Agreement proposed by FPUC and Peoples eliminates existing or potential uneconomic duplication of facilities, and does not cause a decrease in the reliability of natural gas service to existing or future ratepayers. Therefore, we find that the Joint Petition for Approval of the Territorial Agreement between FPUC and Peoples is in the public interest and shall be approved.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that the Amended Volusia County Territorial Agreement between Florida Public Utilities Company and Peoples Gas System is hereby approved. It is further

ORDERED that the provisions of this Order, issued as proposed agency action, shall become final and effective upon the issuance of a Consummating Order unless an appropriate petition, in the form provided by Rule 28-106.201, Florida Administrative Code, is received by the Commission Clerk, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on the date set forth in the "Notice of Further Proceedings" attached hereto. It is further

ORDERED that in the event this Order becomes final, this docket shall be closed.

By ORDER of the Florida Public Service Commission this 23rd day of September, 2011.



HONG WANG
Chief Deputy Commission Clerk
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399
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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 that is available under Section 120.57, 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 will be granted or result in the relief sought.

Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

The action proposed herein is preliminary in nature. Any person whose substantial interests are affected by the action proposed by this order may file a petition for a formal proceeding, in the form provided by Rule 28-106.201, Florida Administrative Code. This petition must be received by the Office of Commission Clerk, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on October 14, 2011.

In the absence of such a petition, this order shall become final and effective upon the issuance of a Consummating Order.

Any objection or protest filed in this/these docket(s) before the issuance date of this order is considered abandoned unless it satisfies the foregoing conditions and is renewed within the specified protest period.