

## BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Complaint of Tropicana	)	DOCKET NO. 900342-GU
Products, Inc., and Petition for	)	
Immediate Relief from Improper	)	ORDER NO. 23134
Charges by Peoples Gas System, Inc.	)	ISSUED: 6-29-90

The following Commissioners participated in the disposition of this matter:

MICHAEL McK. WILSON, Chairman  
 BETTY EASLEY  
 GERALD L. GUNTER  
 FRANK MESSERSMITH

NOTICE OF PROPOSED AGENCY ACTION

ORDER APPROVING STIPULATION AND SETTLEMENT AGREEMENT  
 AND APPROVING CANCELLATION AND REVISION OF CERTAIN  
 RATE SCHEDULES AND ACKNOWLEDGING MOTION TO WITHDRAW COMPLAINT

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 adversely affected files a petition for a formal proceeding, pursuant to Rule 25-22.029, Florida Administrative Code.

This docket was opened by Tropicana Products, Inc.'s (Tropicana) filing of a complaint and petition seeking the Commission's determination that Peoples Gas System, Inc.'s (PGS) charging for service under both Rate Schedule LIS and Rate Schedule LITS would permit PGS to obtain a double recovery of its costs for a portion of the service provided by it to Tropicana, and that the charges under Rate Schedule LITS should not be applied to transportation service provided to Tropicana.

On March 21, 1990, PGS acquired the natural gas distribution assets of Southern Gas Company (Southern) and, as required by Rule 25-9.004, Florida Administrative Code, adopted and republished in the name of PGS, Southern's Natural Gas Tariff, Original Volume No. 4, which was then on file with the Commission. Until PGS's acquisition of Southern's assets, Tropicana had been purchasing natural gas under Southern's Rate Schedule LIS, and was the only customer served by Southern

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under that schedule. Tropicana, an operator of a major citrus processing facility in Bradenton, Florida, continues to be PGS's only customer to which Rate Schedule LIS applies.

Rate Schedule LIS, which was established in Southern's 1984 rate case (Docket No. 840268-GU), provides for payment by Tropicana of a single, fixed customer charge of \$35,264 per month in lieu of the traditional fixed customer charge plus a per-therm non-gas energy charge. Rate Schedule LIS simply combines the customer and non-gas energy charges into a single fixed monthly charge.

The Southern tariff adopted by PGS also includes a series of transportation rate schedules, including Rate Schedule LITS, which had been filed by Southern in anticipation of upstream open access on the Florida Gas Transmission Co. (GT) pipeline system, and which were approved by the Commission in January, 1987. When open access transportation becomes available on the FGT system, Tropicana will be able to convert -- over a five-year phase-in period -- its gas requirements from purchases from PGS under Rate Schedule LIS, to transportation. As adopted by PGS, the Southern tariff provides that PGS would impose charges for sales and transportation service to Tropicana under both the LIS and LITS rate schedules when transportation becomes available over FGT's system. Thus, Tropicana would pay the fixed customer charge of \$35,234 per month for the portion of its natural gas requirements which would be purchased from PGS, and 1.67 cents per therm for the portion of its natural gas requirements which would be transported by PGS. PGS and Tropicana have stipulated this would result in Tropicana's paying PGS approximately \$335,000 per year more (in the first year of open access on the FGT system) than Tropicana would pay for the same service under Rate Schedule LIS -- the rate established for service to Tropicana in Southern's last rate case.

On June 8, 1990, PGS filed a petition for proposed agency action seeking approval for the cancellation of Rate Schedule LITS, and modifications to Rate Schedule LIS which would permit PGS to provide both sales and transportation service to Tropicana at the rate established by the Commission in Southern's last rate case. The cancellation of Rate Schedule LITS and the modifications to Rate Schedule LIS will preclude PGS from obtaining double recovery of a portion of the costs of providing service to Tropicana, and will have no effect on customers of PGS other than Tropicana.

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On June 8, 1990, Tropicana filed a Motion to Withdraw its complaint against PGS contingent upon final Commission action authorizing PGS to implement the aforementioned rate schedule modifications.

Our Staff recommends approval of PGS's petition for modifications to Rate Schedule LIS and cancellation of Rate Schedule LITS, the Stipulation and Settlement Agreement entered into between PGS and Tropicana, and the acknowledgement of Tropicana's Motion to Withdraw its complaint. We agree since (1) the charges under Rate Schedule LITS were designed to recover essentially the same costs of service that are recovered under Rate Schedule LIS, the charges under the LITS rate schedule should not be applied to transportation service provided to Tropicana; (2) the terms of the Stipulation and Settlement Agreement between the parties will resolve the matter which prompted the filing of Tropicana's complaint in this docket; (3) Tropicana has requested that its complaint be withdrawn contingent upon the Commission's approval of the rate schedule modifications mentioned above; (4) PGS and Tropicana have agreed that the provisions of the Stipulation and Settlement Agreement are based on circumstances unique to them; and (5) Tropicana is the only PGS customer which will be affected by our action in this docket.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that Peoples Gas System, Inc.'s cancellation of its Rate Schedule LITS and the modifications to Rate Schedule LIS set forth in its petition for proposed agency action herein are approved. It is further

ORDERED that the Stipulation and Settlement Agreement filed herein by Peoples Gas System, Inc. and Tropicana Products, Inc. is approved. It is further

ORDERED that Tropicana Products, Inc.'s Motion to Withdraw its complaint and petition herein is acknowledged, effective with the entry of the consummating order in this docket.

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By ORDER of the Florida Public Service Commission,  
this 29th day of JUNE, 1990.

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STEVE TRIBBLE, Director  
Division of Records and Reporting

( S E A L )

MRC

by: Kay Flynn  
Chief, Bureau of Records

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.59(4), 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.

The action proposed herein is preliminary in nature and will not become effective or final, except as provided by Rule 25-22.029, Florida Administrative Code. Any person whose substantial interests are affected by the action proposed by this order may file a petition for a formal proceeding, as provided by Rule 25-22.029(4), Florida Administrative Code, in the form provided by Rule 25-22.036(7)(a) and (f), Florida Administrative Code. This petition must be received by the Director, Division of Records and Reporting at his office at 101 East Gaines Street, Tallahassee, Florida 32399-0870, by the close of business on July 23, 1990.

In the absence of such a petition, this order shall become effective on the day subsequent to the above date as provided by Rule 25-22.029(6), Florida Administrative Code, and as reflected in a subsequent order.

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

If this order becomes final and effective on the date described above, any party adversely affected may request judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or by the First District Court of Appeal in the case of a water or sewer utility by filing a notice of appeal with the Director, Division of Records and Reporting and filing a copy of the notice of appeal and the filing fee with the appropriate court. This filing must be completed within thirty (30) days of the effective date of this order, pursuant to Rule 9.110, Florida Rules of Appellate Procedure. The notice of appeal must be in the form specified in Rule 9.900(a), Florida Rules of Appellate Procedure.