

MESSER CAPARELLO & SELF, P.A.

Attorneys At Law

www.lawfla.com

May 4, 2009

VIA ELECTRONIC MAIL

Ms. Ann Cole, Commission Clerk
Office of Commission Clerk
Room 110, Easley Building
Florida Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, Florida 32399-0850

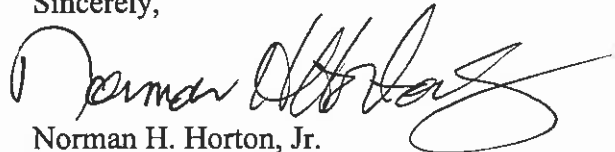
Re: Docket No. 080642-GU

Dear Ms. Cole:

Enclosed for filing on behalf of Florida Public Utilities Company is Florida Public Utilities Company's Motion for Emergency Order Staying Construction in the captioned docket.

Thank you for your assistance with this filing.

Sincerely,



Norman H. Horton, Jr.

NHH:amb

cc: Mr. Marc S. Seagrave
Parties of Record

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition of Florida Public Utilities)	
Company to resolve a territorial)	Docket No. 080642-GU
dispute with Peoples Gas System)	Filed: May 4, 2009
<hr/>		

MOTION FOR EMERGENCY ORDER STAYING CONSTRUCTION

COMES NOW, Florida Public Utilities Company (“FPUC”) and files this Motion for entry of an order directing Peoples Gas to cease construction on a pipeline extension and as basis states:

1. On October 15, 2008, FPUC filed a Petition to Resolve a Territorial Dispute with Peoples Gas (“Peoples”). On January 27, 2009, FPUC filed an Amended Petition which is pending before the Commission.

2. The area in dispute is in Martin County and is described in the Petition and exhibits thereto. Until recently there was no activity by Peoples to continue construction on the line which would extend into the area served by FPUC, but within the past two (2) weeks, piping and supplies have been placed in a location which indicates that construction is to commence. FPUC believes that permits for construction were recently applied for and possibly issued.

3. Despite the existence of the dispute, all indications are that Peoples intends to restart construction activity on the line that extends into the area served by FPUC. Such construction, if continued, would adversely affect FPUC and its customers and there is an immediate and urgent need to require Peoples to cease further construction activity pending resolution of the pending dispute.

4. During hearings in Docket 080318-GU, witnesses for Peoples testified that they have no customers within the disputed area nor do they have any contracts (Tr. 2218-2219).

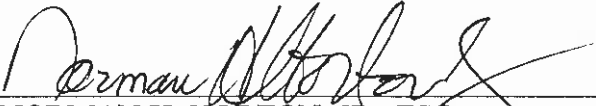
Despite this, Peoples continues to take actions which indicate an extension of their lines into the service area of FPUC. To allow Peoples to continue installation of these lines before resolution of the dispute will irreparably harm FPUC. Once installed, the lines are in place and available for use to serve customers.

5. FPUC requests that the Commission immediately direct Peoples to cease construction of the lines which are or will be used to extend into the service area of FPUC pending resolution of the dispute. Such a directive to Peoples will not harm Peoples or deny service to any customer since there is testimony that there are no customers in that area being or to be served by Peoples. On the other hand, to allow Peoples to continue construction is inconsistent with the intent of Section 366.04, Florida Statutes, which gives the Commission the authority to resolve territorial disputes and construction should not proceed until that dispute is resolved.

WHEREFORE, for the reasons given, FPUC requests that the Commission on an expedited, emergency basis direct Peoples Gas to cease any and all work on lines extending or intended into the service area of FPUC until resolution of the pending territorial dispute.

Dated this 4th day of May, 2009.

MESSER, CAPARELLO & SELF, P.A.
2618 Centennial Place (32308)
Post Office Box 15579
Tallahassee, FL 32317
(850) 222-0720



NORMAN H. HORTON, JR., ESQ.
Attorneys for Florida Public Utilities Company

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been served on the following parties by Electronic Mail (*) and/or U.S. Mail this 4th day of May, 2009.

Keino Young, Esq.*
Office of General Counsel
Florida Public Utilities Company
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

Ms. Paula K. Brown*
Peoples Gas System
Regulatory Affairs
P. O. Box 111
Tampa, FL 33601-0111

Ansley Watson, Jr.*
Macfarlane Ferguson & McMullen
P.O. Box 1531
Tampa, Florida 33601-1531


Norman H. Horton, Jr.