

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for approval of Special Gas Transportation Service agreement with Florida City Gas by Miami-Dade County through Miami-Dade Water and Sewer Department. | DOCKET NO. 090539-GU
ORDER NO. PSC-10-0730-PCO-GU
ISSUED: December 13, 2010

ORDER DETERMINING ISSUES FOR HEARING

Florida City Gas (FCG) executed a Natural Gas Transportation Services Agreement with Miami-Dade Water and Sewer Department (MDWASD) in 2008 (2008 Agreement). By petition dated December 14, 2009, MDWASD requested that the Commission approve the 2008 Agreement between FCG and MDWASD. By Order No. PSC-10-0671-PCO-GU,¹ the Commission determined that it has jurisdiction to consider the 2008 Agreement pursuant to the authority vested in this Commission by Sections 366.04, 366.05, and 366.06, Florida Statutes (F.S.). This matter is scheduled for a formal administrative hearing on March 23 and 24, 2011.

At a Status Conference on December 8, 2010, the parties appeared before me, as Prehearing Officer, to discuss the disputed issues in this proceeding. Attached to the December 1, 2010 Status Conference notice were Appendix A (Issues 1-7) and Appendix B (Issues 8-36), which included the tentative list of issues agreed to by all parties and the list of disputed issues to be addressed at the Status Conference, respectively. This Order memorializes the decisions made on the issues at the Status Conference and is issued pursuant to the authority granted by Rule 28-106.211, Florida Administrative Code (F.A.C.), which provides that the presiding officer before whom a case is pending may issue any orders necessary to effectuate discovery, prevent delay, and promote the just, speedy, and inexpensive determination of all aspects of the case.

Agreed Issues – Appendix A (Issues 1-7)

The following agreed upon issues from Appendix A were approved without change as proposed by the parties:

Issue 1 – What are FCG's incremental costs to serve MDWASD's gas transportation requirements for the Alexander Orr, Hialeah-Preston, and South Dade Wastewater Treatment plants, respectively?

Issue 3 – Does MDWASD have a viable by-pass option?

Issue 4 – What, if any, FCG tariff schedule applies to the 2008 Agreement for gas transportation services to MDWASD?

¹ Issued on November 5, 2010, in Docket No. 090539-GU, In re: Petition for approval of Special Gas Transportation Service agreement with Florida City Gas by Miami-Dade County through Miami-Dade Water and Sewer Department.

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Issue 5 – Should the 2008 Agreement between MDWASD and FCG be approved as a special contract?

Issue 6 – In the absence of a special agreement, what existing FCG tariff schedule applies to the natural gas transportation service provided to MDWASD?

Agreed upon Issues 2 and 7 were approved with the following modifications:

Issue 2 – Does the contract rate in the 2008 Agreement allow FCG to recover FCG's incremental cost to serve MDWASD?

Issue 7 – Based on the Commission's decisions in this case, what monies, if any, are due MDWASD and/or FCG, and when should such monies be paid?

Disputed Issues – Appendix B (Issues 8-36)

At the Status Conference, MDWASD voluntarily withdrew its request to include in this proceeding Issues 13-18, 20, and 31-35 from Appendix B. Accordingly, those issues were excluded. Issue 36 was approved without change as proposed by FCG:

Issue 36 – If the 2008 Agreement is approved, should FCG be allowed to recover the difference between the contract rate and the otherwise applicable tariff rates through the Competitive Rate Adjustment (CRA) factor for the period August 1, 2009, forward? How should any such recovery occur?

Issues 19 and 30 were approved with the following modifications:

Issue 19 – Did FCG perform an incremental cost of service study prior to entering into the 2008 Agreement with MDWASD?

Issue 30 – Should the Commission disallow cost recovery for the differential, if any, between FCG revenue under the 2008 Agreement and FCG's incremental cost to serve MDWASD?

The remaining issues in dispute, Issues 8-12 and 21-29, were excluded from this proceeding because they can be addressed by the parties under other approved issues.

Conclusion

Attached to this Order as Attachment 1 is the list of issues approved for inclusion in this proceeding. For ease of reference and identification purposes, the issues have been placed in logical order and assigned new issue numbers.

Based upon the foregoing, it is

ORDERED by Commissioner Nathan A. Skop, as Prehearing Officer, that the provisions of this Order shall govern this proceeding unless modified by the Commission.

By ORDER of Commissioner Nathan A. Skop, as Prehearing Officer, this 13th day of December, 2010.



NATHAN A. SKOP
Commissioner and Prehearing Officer

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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.

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.

Any party adversely affected by this order, which is preliminary, procedural or intermediate in nature, may request: (1) reconsideration within 10 days pursuant to Rule 25-22.0376, Florida Administrative Code; or (2) 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 25-22.0376, 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.

Attachment 1

1. Did FCG perform an incremental cost of service study prior to entering into the 2008 Agreement with MDWASD?
 2. What are FCG's incremental costs to serve MDWASD's gas transportation requirements for the Alexander Orr, Hialeah-Preston, and South Dade Wastewater Treatment plants, respectively?
 3. Does the contract rate in the 2008 Agreement allow FCG to recover FCG's incremental cost to serve MDWASD?
 4. Does MDWASD have a viable by-pass option?
 5. What, if any, FCG tariff schedule applies to the 2008 Agreement for gas transportation services to MDWASD?
 6. In the absence of a special agreement, what existing FCG tariff schedule applies to the natural gas transportation service provided to MDWASD?
 7. Should the 2008 Agreement between MDWASD and FCG be approved as a special contract?
 8. If the 2008 Agreement is approved, should FCG be allowed to recover the difference between the contract rate and the otherwise applicable tariff rates through the Competitive Rate Adjustment (CRA) factor for the period August 1, 2009, forward? How should any such recovery occur?
 9. Should the Commission disallow cost recovery for the differential, if any, between FCG revenue under the 2008 Agreement and FCG's incremental cost to serve MDWASD?
 10. Based on the Commission's decisions in this case, what monies, if any, are due MDWASD and/or FCG, and when should such monies be paid?
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