

State of Florida



Public Service Commission

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COMMISSION
CLERK

DATE: April 2, 2015

TO: Office of Commission Clerk (Stauffer)

FROM: Division of Economics (Garl) *JW.D.*
Office of the General Counsel (Barrera) *MB/C*

RE: Docket No. 150053-GU – Petition by Peoples Gas System for approval of special contract with Nopetro-Orlando, LLC.

AGENDA: 04/16/15 – Regular Agenda Conference - Proposed Agency Action – Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Administrative

CRITICAL DATES: None

SPECIAL INSTRUCTIONS: None

Case Background

On February 16, 2015, Peoples Gas System (Peoples) filed a petition requesting Commission approval of a special contract with Nopetro-Orlando, LLC (Nopetro). Peoples proposes to extend its distribution facilities to provide transportation service to a compressed natural gas (CNG) vehicle fueling facility that Nopetro will construct and own to serve the bus fleet owned and operated by LYNX, the transit system of the City of Orlando.

The Florida Legislature has taken action in recent years to encourage the use of natural gas as a motor fuel. During the 2012 Florida Legislative Session, changes to Section 334.044, Florida Statutes (F.S.), were passed which encourage the use of natural gas motor fuels to reduce transportation costs for businesses and residents within the state.¹ The passage of the Natural

¹ Section 334.044(33)(a)(4), F.S.

Gas Motor Fuel bill during the 2013 Session provides significant tax benefits and incentives for use of natural gas as a motor fuel.² Pursuant to the legislative intent to encourage the use of natural gas in vehicles, the Commission approved new natural gas vehicle service tariffs for four utilities in 2013.³

Founded in Miami in 2007, Nopetro builds and operates natural gas fueling stations. In 2011, Nopetro developed a CNG public-private partnership with Leon County Schools and the City of Tallahassee. Most recently, Nopetro has contracted with the Central Florida Regional Transportation Authority, better known in the Orlando area as LYNX.

During its evaluation of the petition, staff issued one data request to Peoples. The majority of the questions posed by staff were intended to ensure that the proposed special contract would not impose additional costs on Peoples' general body of ratepayers. Rule 25-9.034(1), Florida Administrative Code (F.A.C.), requires that whenever a special contract is entered into by a utility for the sale of its product or services in a manner or subject to the provisions not specifically covered by its filed regulations and standard approved rate schedules, such contract must be approved by the Commission prior to its execution. The Commission has jurisdiction over this matter pursuant to Chapter 366, Florida Statutes.

² Chapter 2013-198, Laws of Florida

³ Order No. PSC-13-0395-PAA-GU, issued August 28, 2013, in Docket No. 130135-GU, In re: Joint petition of Florida Public Utilities Company, Florida Public Utilities-Indiantown Division and the Florida Division of Chesapeake Utilities Corporation for approval of Commercial Natural Gas Service Programs, Order No. PSC-13-0398-TRF-GU, issued August 29, 2013, in Docket No. 130147-GU, In re: Request for approval of tariff modifications applicable to natural gas vehicles and fueling facilities, by Florida City Gas, and Order No. PSC-13-0446-P AA-GU, issued October 1, 2013, in Docket No. 130197-GU, In re: Request for approval of tariff modifications related to natural gas vehicles and fueling facilities by People's Gas System.

Discussion of Issues

Issue 1: Should the Commission approve the special contract between Peoples and Nopetro?

Recommendation: Yes. The Commission should approve the special contract between Peoples and Nopetro. (Garl)

Staff Analysis: As required by Rule 25-9.034(1), F.A.C., Peoples filed for Commission approval of its proposed contract with Nopetro. Peoples will be required to extend its distribution facilities by 5.1 miles in order to provide service to Nopetro. The confidential dollar per therm distribution charge contained in the contract is higher than the otherwise applicable tariff rate to allow Peoples to recover the cost of the pipeline extension made to Nopetro's planned fueling station. In addition to the distribution charge contained in the contract, Nopetro will be responsible for all other applicable charges and clauses of Rate Schedule GS-5, such as the customer charge, Energy Conservation Cost Recovery Clause or Cast Iron Bare Steel Replacement Rider surcharge.

Peoples will provide transportation service only to Nopetro; Nopetro will purchase the natural gas it will compress and deliver as CNG through a gas marketer. The term of the contract is 15 years and may be extended for an additional five years upon mutual agreement by Peoples and Nopetro under the otherwise applicable rate schedule and rates as approved by the Commission at the time of the extension of the term.

Peoples provided a confidential cost of service study for service to Nopetro to show that the revenue stream generated by the charges contained in the contract will cover the annual operating costs. The estimated annual cost associated with the facility extension includes a return on investment, operations and maintenance expenses, depreciation, and taxes. The contract also provides for annual minimum therm volumes to be taken or paid for. Nopetro is provided options at different times under the contract to either increase the annual volume commitments, or to make lump sum payments to Peoples. To further protect Peoples and its ratepayers, the proposed contract requires a security guaranty by Nopetro to secure the payment to Peoples for all costs incurred for the facilities extension.

Staff notes that Rule 25-7.054, F.A.C., allows utilities to require an advance in aid of construction to cover the cost of line extension required to provide service that is greater than the free limit specified in Rule 25-7.054(3)(a), F.A.C. However, Rule 25-7.054(3)(c) also allows any utility to establish a line extension policy that is more favorable to consumers. In this instance, Peoples and Nopetro determined that a special contract pursuant to Rule 25-9.034(1), F.A.C., to cover Peoples's cost of the distribution facilities extension to serve Nopetro was required to allow payments over the term of the contract.

Conclusion

Staff recommends that the Commission approve the special contract because it will generate annual revenues which will recover the annual cost to serve, thereby providing benefits to Peoples' general body of ratepayers, and would follow the State Legislature's intent to encourage the use of natural gas in vehicles.

Issue 2: Should this docket be closed?

Recommendation: Yes. If no protest is filed by a person whose substantial interests are affected within 21 days of the issuance of the Order, this docket should be closed upon the issuance of a Consummating Order. (Barrera)

Staff Analysis: If no protest is filed by a person whose substantial interests are affected within 21 days of the issuance of the Order, this docket should be closed upon the issuance of a Consummating Order.