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IN REPLY REFER TO:

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June 1, 2016

VIA E-PORTAL FILING

Ms. Carlotta S. Stauffer
Commission Clerk
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850

Re: Docket No. 160120-GU - Petition for approval of tariff modifications to Rider NCTS, the Firm Delivery and Operational Balancing Agreement, and negative imbalance cash-out prices, by Peoples Gas System

Dear Ms. Stauffer:

Attached for electronic filing in the above docket on behalf of Peoples Gas System, please find Peoples' Response and Opposition to JEA's Petition for Leave to Intervene.

We appreciate your usual assistance.

Sincerely,



Ansley Watson, Jr.

AWjr/a
Attachment

cc: Marguerite E. Patrick, Esquire
Lukasz Cyran
Brad Nelson
Jody Brooks, Esquire
Berdell Knowles
Lori Phelan
Danijela Janjic, Esquire
Ms. Kandi M. Floyd

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for approval of tariff)
modifications to Rider NCTS, the Firm)
Delivery and Operational Balancing)
Agreement, and negative imbalance)
cash-out prices, by Peoples Gas)
System.)
_____)

Docket No. 160120-GU

Submitted for Filing:
6-1-16

**PEOPLES GAS SYSTEM'S RESPONSE AND OPPOSITION
TO JEA'S PETITION FOR LEAVE TO INTERVENE**

Peoples Gas System ("Peoples"), by its undersigned attorneys, requests that the Commission deny the Petition for Leave to Intervene filed herein by JEA, and all relief requested by JEA in such petition. JEA's petition fails to show (A) that it will suffer injury in fact which is of sufficient immediacy to entitle it to a hearing, and (B) that its substantial injury (if any) is of a type or nature which the proceeding in this docket is designed to protect. Having failed to show that its substantial interests will be determined by the Commission's determination in this docket, JEA has no standing, and is not entitled to intervene under Rules 25-22.039 and 28-106.205, F.A.C.

MEMORANDUM IN SUPPORT OF PEOPLES' RESPONSE

Summary

Condensed to its essence, JEA's petition argues that it should be permitted to intervene because the tariff changes proposed by Peoples will have an effect on the costs incurred for JEA to provide service to JEA's customers (*i.e.*, JEA presumably passes on to its customers any charges it is required to pay to Peoples for the upstream capacity Peoples releases to JEA), and because no other party in this proceeding can adequately represent JEA's rights and interests in this proceeding.

Neither of the foregoing assertions, or any fact set forth in JEA's petition, confers on JEA standing to intervene or participate in this docket as a party.

JEA

JEA is a Pool Manager supplying natural gas (*i.e.*, the commodity) to customers on Peoples' distribution system who obtain transportation under Peoples' NaturalChoice Transportation Service Rider ("Rider NCTS"). While JEA is a Peoples customer, it is not a customer in connection with any of the tariff changes for which the Commission's approval is sought in this docket. Nor is it subject to the Commission's regulatory jurisdiction except as a municipal electric utility. For purposes of the changes for which approval is sought by Peoples in this docket, it is a gas marketer that has qualified to be a Pool Manager on the Peoples system under Rider NCTS.

JEA uses upstream pipeline capacity released to it by Peoples to transport the gas it sells to the Peoples customer's in its customer pool. It causes the upstream pipeline to deliver the gas to Peoples at a point of interconnection between the pipeline and Peoples, and Peoples then delivers the gas to the individual customers in JEA's customer pool. The customers pay Peoples only for the transportation on the Peoples system, and pay JEA for the gas commodity and (presumably) the transportation on the upstream pipeline. Peoples has no knowledge regarding what JEA's customers pay to JEA for the gas they purchase from JEA. On information and belief, however, Peoples believes that JEA recovers from the customers in its pool the cost of the gas, the cost of the upstream pipeline transportation, and a profit on the gas it sells to the customers (and possibly a profit or margin on the upstream pipeline capacity obtained from Peoples).

Standard for Intervention

Intervention in proceedings before the Commission is governed by Rules 25-22.039 and 28-106.205, F.A.C., and applicable case law. These rules provide, among other things, that a petition¹ for leave to intervene

¹ Rule 28-106.204, F.A.C., provides that all requests for relief shall be made by motion. Peoples

must include allegations sufficient to demonstrate that the intervenor is entitled to participate in the proceeding as a matter of constitutional or statutory right or pursuant to Commission rule, or that the substantial interests of the intervenor are subject to determination or will be affected through the proceeding.

JEA has alleged no constitutional or statutory right, or any Commission rule, under which it is entitled to participate as a party in this proceeding. Although JEA has alleged that its substantial interests will be affected through the proceeding, its petition shows on its face that such is not the case.

JEA fails to recognize that whether it is entitled to intervene is governed by the two-pronged test for "substantial interest" articulated in *Agrico Chemical Co. v. Dept. of Environmental Regulation*, 406 So.2d 478, 482 (2d D.C.A. Fla. 1981), *rev. den.* 415 So.2d 1359 (Fla. 1982). According to *Agrico*, a person seeking leave to intervene must show (a) that he will suffer injury in fact which is of sufficient immediacy to entitle him to a Section 120.57 hearing, and (b) that his substantial injury is of a type or nature which the proceeding is designed to protect. JEA's petition makes neither showing.


Conclusion

JEA's petition for leave to intervene must be denied. It shows neither that JEA will suffer real and immediate injury as a result of the Commission's determination in this proceeding, nor that whatever injury it might suffer is of the type or nature that this proceeding is designed to protect.

considers JEA's "petition" to be such a motion. Paragraph (3) of this rule also provides that

All motions, other than a motion to dismiss, shall include a statement that the movant has conferred with all other parties of record and shall state as to each party whether the party has any objection to the motion. Any statement that the movant was unable to contact the other party or parties before filing the motion must provide information regarding the date(s) and method(s) by which contact was attempted. No such statement (required in a motion for leave to intervene by Rule 28-106.205, F.A.C.) is included in JEA's petition or motion.

Respectfully submitted,



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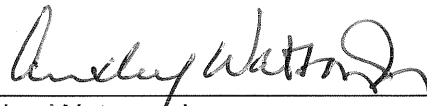
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Tampa, Florida 33601-1531

Attorneys for Peoples Gas System

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true copy of the foregoing has been furnished via e-mail this 1st day of June, 2016, to Brad Nelson, JEA Energy, Inc., 7001 SW 24th Ave., Gainesville, FL 32607 (Regulatory@JEAEnergy.com); Marguerite E. "Becky" Patrick, Esquire, JEA Energy, Inc., 7001 SW 24th Ave., Gainesville, FL 32607 (BPatrick@JEAEnergy.com); Lukasz Cyran, JEA Energy, Inc., 7001 SW 24th Ave., Gainesville, FL 32607 (LJCyran@JEAEnergy.com); Jody Brooks, Esquire, City of Jacksonville, 117 W. Duval St., Suite 480, Jacksonville, FL 32202, JodyB@coj.net; Berdell Knowles, JEA, 21 W. Church St., Jacksonville, FL 32202, KnowB@jea.com; Lori Phelan, JEA, 21 W. Church St., Jacksonville, FL 32202, Phelll@jea.com; and Danijela Janjic, Esquire, Office of the General Counsel, Florida Public Service Commission, 2450 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850 (djanjic@psc.state.fl.us).



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