

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition to resolve territorial dispute)
in Sumter county and/or Lake County with)
City of Leesburg and/or South Sumter Gas)
Company, LLC, by Peoples Gas System)
_____)

Docket No. 20180055
Filed: April 5, 2018

**SOUTH SUMTER GAS COMPANY’S RESPONSE TO MOTION
TO EXPEDITE THE RESOLUTION OF THE TERRITORIAL DISPUTE**

South Sumter Gas Company, LLC (“SSGC”), by and through its undersigned counsel, and pursuant to Rule 28-106.204(1), Florida Administrative Code (“FAC”), hereby files this response to Peoples Gas System’s (“PGS”) Motion to Expedite the Resolution of the Territorial Dispute (the “Motion”) and in support thereof states as follows:

1. On March 29, 2018, PGS filed the Motion, which requests “expedited treatment of the territorial dispute” at issue in this docket. The Motion, which requests that the Commission “expedite” an administrative litigation against two parties which was filed by PGS only 40 days ago, does not cite to any Commission rule, statute, or order (or any other authority) which supports the requested relief. The Motion purports to be supported by an affidavit (see para. 6) which was neither served on SSGC nor filed with the Commission. In any case, the Motion cites no authority to support the consideration of such an *ex parte* and unilateral statement in support of the relief sought.

2. The request of PGS for an accelerated hearing – if in fact that is what is being requested – is particularly problematic given the fact that PGS is the petitioner in this case. PGS has had an undetermined amount of time to consider and prepare whatever case it will substantively present to the Commission. SSGC has had only 40 days, and in fact the Motion to Dismiss filed by both of the respondents in this case was not even due until three days ago, *after* PGS’s apparent

attempt to accelerate the schedule. Florida's Administrative Procedure Act and the Commission's own well-established and long used procedures for such litigations are designed to assure the accoutrements of due process to administrative litigants. Those assurances should not be lightly tossed aside. In point of fact, should this matter actually require a formal evidentiary proceeding, the statutes and administrative code rules which are the procedural foundation of the Petition, Section 366.04(3)b, Florida Statutes, and Rule 25-7.0472, FAC, contemplate that the Commission shall consider – and therefore it is incumbent upon the parties to address – a substantial number of detailed and complicated factors as to which adequate time to prepare, after thorough discovery, is particularly appropriate. The Commission's long-standing and routine process for formal administrative hearings allows such time to prepare and discover, and provides the parties with all the process due under the Administrative Procedure Act. Nothing about this case suggests or supports that an abnormally expedited schedule is appropriate.

3. Even, *arguendo*, if such “expeditious treatment” of this potentially complex case (a request made by the very party who initiated the proceeding) was not categorically inappropriate – which it is – the sole basis which PGS sets forth in support of its request in no way justifies an attenuated approach to this litigation. As addressed in more detail in SSGC's Motion to Dismiss, PGS's allegations that a dispute exists because the natural gas facilities either under construction or to be constructed by Leesburg, or by South Sumter Gas for operation and maintenance by Leesburg, is entirely speculative that these actions would be uneconomical because they may result in a duplication of facilities. PGS did not allege that the Leesburg construction notices conflict with any of its own notices for facilities in the same geographic area. PGS did not allege that the construction notices duplicate PGS distribution facilities already in place within the new development. PGS did not allege there is a race of competing utilities to serve new portions of

The Villages development. PGS did not make any of these allegations because it has no facilities within the areas identified by the notices. Further, PGS has no right to place facilities within the geographic area that is the subject of the notices because the Developer chose Leesburg, and otherwise could have built without natural gas service. The concerns expressed in the Motion that “expedited treatment” of this case is necessary in order to prevent an uneconomic duplication of resources is nothing more than speculation based upon one party’s allegations at this point in the proceeding. Indeed, even if presumed as fact, there has been no demonstration of cause, good or otherwise, to “expedite” the schedule of such a complex litigation.

4. SSGC has no desire to delay this proceeding. SSGC’s only intent in filing this opposition is to make sure that the opportunity the Commission routinely and appropriately provides to litigants is afforded to SSGC in this case, ultimately to the benefit of the Commission and its staff and the public.

Wherefore, South Sumter Gas Company’s requests this Commission deny the Motion.

Respectfully submitted,

/s/ John L. Wharton

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CERTIFICATE OF SERVICE

I **HEREBY CERTIFY** that a true and correct copy of the foregoing was sent by email to
on this 5th day of April, 2018, to the following:

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