

**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

In RE: Petition for issuance of an order to  
The City of Leesburg and South Sumter  
Gas Company, LLC, to show cause why  
they should not be regulated by the  
Commission as a public utility as defined in  
Section 336.02(1), Florida Statutes, ect.

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Docket No. 20180085-GU  
Filed: April 26, 2018

**MOTION TO INTERVENE BY SOUTH SUMTER GAS COMPANY, LLC**

South Sumter Gas Company, LLC, (“SSGC”) by and through undersigned counsel, and pursuant to Rule 28-105.0027, Florida Administrative Code (“FAC”), hereby files this Motion To Intervene (“the Motion”) and states:

1. On April 2, 2018, Peoples Gas System (“PGS”) filed the petition in this docket (“the Petition”) requesting, *inter alia*, that the Commission issue a particular declaratory statement. Although the Petition initially requests, in paragraph A on page 1, the issuance of a declaration “in the alternative”, paragraph 30 and the prayer for relief on page 17 of the Petition both request a declaration “whether or not the Commission issues” an order to show cause. As the relief in the Petition is not, as a practical matter, in the alternative, this Motion will not concern itself with the “alternative” nature of the Petition.

2. In this case, although only four numbered paragraphs in the Petition are set forth under the Request for Declaratory Statement, the request itself is undeniably dependent upon the 14 pages of allegations which precede paragraph 30 therein. In fact, SSGC and/or its proposed activities and/or the possibility that it is engaged in a partnership are mentioned dozens of times in the Petition. As SSGC and its proposed activities are inextricably intertwined with the requested declaration, and as further discussed below, SSGC’s substantial interests are clearly subject to determination in this docket.

3. Pursuant to Rule 28-105.0027, FAC:

(1) Persons other than the original parties to a pending proceeding whose substantial interests will be affected by the disposition of the declaratory statement and who desire to become parties may move the presiding officer for leave to intervene ....

4. The Intervenor, SSGC, is represented by the undersigned counsel.

5. SSGC is entitled to participate in this docket because its substantial interests are subject to determination or will be affected by the proceeding. SSGC will not, within the body of this Motion, belabor this point. Rather, the facts stated or alleged in the Petition, and in SSGC's Motion(s) to Dismiss filed in this docket on this same date (each incorporated by this reference as if fully set forth herein) clearly and redundantly establish that the interests of SSGC satisfy the two prong requirement of *Agrico Chemical Company v. Department of Environmental Regulation*, 406 So. 2d 478, 482 (Fla. 2d DCA 1981); see, e.g., *In re: Petition for declaratory statement or other relief regarding the expiration of the Vero Beach electric service franchise agreement, by the Board of County Commissioners, Indian River County, Florida*. Docket No. 140142-EM; Order No. PSC-14-0423-PCO-EM (2014).

6. The most strikingly and illustrative exemplar that the Petition impacts SSGC's substantial interests may be found in the requested declaration itself. Therein, PGS seeks a declaratory statement "as to which utility (Leesburg or SSGC, or a partnership, joint venture or other legal entity created by the Agreement between the two) Peoples should negotiate with .... (t)his will involve the Commission's determination as to whether the Agreement creates a separate entity which is a "public utility"....". The requested declaration, on its face and as a matter of law, demonstrates that SSGC's substantial interests will be directly affected by the requested declaratory statement.

7. Per *Florida Residential Treatment Centers, Inc. v. Dept., of Health and Rehabilitative Services*, 553 So. 2d 229 (Fla. 1st DCA 1990), and *Coalition of Mental Health Professions v. Dept. of Professional Regulation*, 546 So. 2d 27 (Fla. 1st DCA 1989), if there has been a sufficient showing that a moving party's substantial interests would be impacted by a proceeding, as here, it would constitute an abuse of discretion for the presiding authority to deny a motion to intervene.

8. Counsel for SSGC has consulted with counsel for PGS. Counsel for PGS represents that it does not object to this Motion.

WHEREFORE, SSGC respectfully requests that the Commission grant SSGC's Motion to Intervene in this docket.

/s/ John L. Wharton

**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 26<sup>th</sup> day of April, 2018, to the following:

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*/s/ John L. Wharton*  
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