

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for approval of experimental Rider FTA-2 (Firm Transportation Aggregation Service 2) and modifications to imbalance cashout provisions of Rider FTA program, by Tampa Electric Company d/b/a Peoples Gas System.

DOCKET NO. 990935-GU
ORDER NO. PSC-00-0343-PHO-GU
ISSUED: February 18, 2000

Pursuant to Notice and in accordance with Rule 28-106.209, Florida Administrative Code, a Prehearing Conference was held on January 10, 2000, in Tallahassee, Florida, before Commissioner Susan F. Clark, as Prehearing Officer.

APPEARANCES:

ANSLEY WATSON, JR., ESQUIRE, Macfarlane Ferguson Law Firm, P.O. Box 1531, Tampa, Florida 33601
On behalf of Peoples Gas System.

WM. COCHRAN KEATING, ESQUIRE, Florida Public Service Commission, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850
On behalf of the Commission Staff.

PREHEARING ORDER

I. CONDUCT OF PROCEEDINGS

Pursuant to Rule 28-106.211, Florida Administrative Code, this Order is issued to prevent delay and to promote the just, speedy, and inexpensive determination of all aspects of this case.

II. CASE BACKGROUND

On July 19, 1999, Peoples Gas System (Peoples) filed a petition for approval of a new experimental Firm Transportation Aggregation Service Rider (Rider FTA-2) and modifications to the imbalance cashout provisions of its Firm Delivery and Operational Balancing Agreement (Firm Delivery Agreement), which are applicable

DOCUMENT NUMBER-DATE

02251 FEB 18 8

FPSC-RECORDS/REPORTING

ORDER NO. PSC-00-0343-PHO-GU
DOCKET NO. 990935-GU
PAGE 2

under its original Rider FTA and the new experimental Rider FTA-2. On August 17, 1999, Peoples filed an amendment to the petition. Pursuant to Order No. PSC-99-2122-PCO-GU, issued October 25, 1999, the Commission took no action on Peoples' proposed tariff and set this matter for a full evidentiary hearing.

On February 16, 2000, Peoples filed an Offer of Settlement to resolve the issues in this docket and eliminate the need for a hearing. Peoples' Offer of Settlement is attached hereto as Attachment A. Staff has reviewed Peoples' Offer of Settlement and believes that its terms are reasonable. Staff is therefore prepared to recommend approval of the Offer of Settlement at the hearing scheduled for this docket.

III. PROCEDURE FOR HANDLING CONFIDENTIAL INFORMATION

A. Any information provided pursuant to a discovery request for which proprietary confidential business information status is requested shall be treated by the Commission and the parties as confidential. The information shall be exempt from Section 119.07(1), Florida Statutes, pending a formal ruling on such request by the Commission, or upon the return of the information to the person providing the information. If no determination of confidentiality has been made and the information has not been used in the proceeding, it shall be returned expeditiously to the person providing the information. If a determination of confidentiality has been made and the information was not entered into the record of the proceeding, it shall be returned to the person providing the information within the time periods set forth in Section 366.093, Florida Statutes.

B. It is the policy of the Florida Public Service Commission that all Commission hearings be open to the public at all times. The Commission also recognizes its obligation pursuant to Section 366.093, Florida Statutes, to protect proprietary confidential business information from disclosure outside the proceeding.

1. Any party intending to utilize confidential documents at hearing for which no ruling has been made, must be prepared to present their justifications at hearing, so that a ruling can be made at hearing.

2. In the event it becomes necessary to use confidential information during the hearing, the following procedures will be observed:

- a) Any party wishing to use any proprietary confidential business information, as that term is defined in Section 366.093, Florida Statutes, shall notify the Prehearing Officer and all parties of record by the time of the Prehearing Conference, or if not known at that time, no later than seven (7) days prior to the beginning of the hearing. The notice shall include a procedure to assure that the confidential nature of the information is preserved as required by statute.
- b) Failure of any party to comply with 1) above shall be grounds to deny the party the opportunity to present evidence which is proprietary confidential business information.
- c) When confidential information is used in the hearing, parties must have copies for the Commissioners, necessary staff, and the Court Reporter, in envelopes clearly marked with the nature of the contents. Any party wishing to examine the confidential material that is not subject to an order granting confidentiality shall be provided a copy in the same fashion as provided to the Commissioners, subject to execution of any appropriate protective agreement with the owner of the material.
- d) Counsel and witnesses are cautioned to avoid verbalizing confidential information in such a way that would compromise the confidential information. Therefore, confidential information should be presented by written exhibit when reasonably possible to do so.
- e) At the conclusion of that portion of the hearing that involves confidential information, all copies of confidential exhibits shall be returned to the proffering party. If a confidential exhibit has been admitted into evidence, the copy provided to the Court Reporter shall be retained in the Division of Records and Reporting's confidential files.

IV. POST-HEARING PROCEDURES

Each party shall file a post-hearing statement of issues and positions. A summary of each position of no more than 50 words, set off with asterisks, shall be included in that statement. If a party's position has not changed since the issuance of the prehearing order, the post-hearing statement may simply restate the prehearing position; however, if the prehearing position is longer than 50 words, it must be reduced to no more than 50 words. If a party fails to file a post-hearing statement, that party shall have waived all issues and may be dismissed from the proceeding.

Pursuant to Rule 28-106.215, Florida Administrative Code, a party's proposed findings of fact and conclusions of law, if any, statement of issues and positions, and brief, shall together total no more than 40 pages and shall be filed at the same time.

V. PREFILED TESTIMONY AND EXHIBITS; WITNESSES

Testimony of all witnesses to be sponsored by the parties has been prefiled. All testimony which has been prefiled in this case will be inserted into the record as though read after the witness has taken the stand and affirmed the correctness of the testimony and associated exhibits. All testimony remains subject to appropriate objections. Each witness will have the opportunity to orally summarize his or her testimony at the time he or she takes the stand. Upon insertion of a witness' testimony, exhibits appended thereto may be marked for identification. After all parties and Staff have had the opportunity to object and cross-examine, the exhibit may be moved into the record. All other exhibits may be similarly identified and entered into the record at the appropriate time during the hearing.

Witnesses are reminded that, on cross-examination, responses to questions calling for a simple yes or no answer shall be so answered first, after which the witness may explain his or her answer.

The Commission frequently administers the testimonial oath to more than one witness at a time. Therefore, when a witness takes the stand to testify, the attorney calling the witness is directed to ask the witness to affirm whether he or she has been sworn.

VI. ORDER OF WITNESSES

<u>Witness</u>	<u>Proffered By</u>	<u>Issues #</u>
<u>Direct</u>		
J. Brent Caldwell	Peoples	1

VII. BASIC POSITIONS

Peoples: Peoples' Rider FTA-2 and the modifications to the imbalance cashout provisions in the Firm Delivery Agreement should be approved, or permitted to remain in effect without approval, because they provide benefits to Peoples and its customers, and are fair and reasonable. Approval of Rider FTA-2 is consistent with the Commission's desire that transportation service be made available to more of Peoples' commercial customers, with the Commission's previous approvals of Peoples' substantially similar Rider FTA, and with the Commission's previous approval of substantially similar tariff provisions for City Gas Company of Florida.

Staff: Staff's positions are preliminary and based on materials filed by the parties and on discovery. The preliminary positions are offered to assist the parties in preparing for the hearing. Staff's final positions will be based upon all the evidence in the record and may differ from the preliminary positions.

VIII. ISSUES AND POSITIONS

As stated above, Peoples filed an Offer of Settlement on February 16, 2000, to resolve the issues in this docket and eliminate the need for hearing. Staff believes that the terms of Peoples' Offer of Settlement, attached hereto as Attachment A, are reasonable and is prepared to recommend approval of the Offer of Settlement at the hearing scheduled for this docket. If the Commission approves Peoples' Offer of Settlement, all issues in this docket will be resolved.

ISSUE 1: Should the Commission grant the petition of Peoples Gas System for approval of experimental Rider FTA-2 (Firm Transportation Aggregation Service 2) and modifications to the imbalance cashout provisions of the Firm Delivery Agreement?

POSITION: Yes. Pursuant to the terms set forth in Peoples' Offer of Settlement, Peoples' petition should be granted.

ISSUE 2: Should this docket be closed?

POSITION: Yes. This docket should be closed if Peoples' Offer of Settlement is approved.

IX. EXHIBIT LIST

<u>Witness</u>	<u>Proffered By</u>	<u>I.D. No.</u>	<u>Description</u>
J. Brent Caldwell	Peoples	_____ (JBC-1)	Rider FTA-2 (applicable in Peoples' service areas other than West Florida Region)
		_____ (JBC-2)	Rider FTA-2 (applicable in Peoples' West Florida Region)
		_____ (JBC-3)	Cashout modifications

Parties and Staff reserve the right to identify additional exhibits for the purpose of cross-examination.

X. PROPOSED STIPULATIONS

Peoples' Offer of Settlement, attached hereto as Attachment A, would, if approved, resolve the issues in this docket and eliminate the need for hearing. Staff believes that the terms of the Offer of Settlement are reasonable and is prepared to recommend its approval at the hearing scheduled for this docket.

XI. PENDING CONFIDENTIALITY REQUESTS

There are no pending confidentiality requests at this time.

XII. PENDING MOTIONS

There are no pending motions at this time.

XIII. RULINGS

Staff's Motion for Continuance of Hearing is granted. The hearing in this docket, originally scheduled for January 14, 2000, shall be continued until February 22, 2000. Staff testimony, if any, shall be filed February 2, 2000. Rebuttal testimony, if any, shall be filed February 14, 2000. Peoples and Staff shall respond to discovery requests within seven days of receipt of the request.

It is therefore,

ORDERED by Commissioner Susan F. Clark, as Prehearing Officer, that this Prehearing Order shall govern the conduct of these proceedings as set forth above unless modified by the Commission.

By ORDER of Commissioner Susan F. Clark, as Prehearing Officer, this 18th day of February, 2000.



SUSAN F. CLARK
Commissioner and Prehearing Officer

(S E A L)

WCK

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, if issued by a Prehearing Officer; (2) reconsideration within 15 days pursuant to Rule 25-22.060, Florida Administrative Code, if issued by the Commission; or (3) 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 Director, Division of Records and Reporting, in the form prescribed by Rule 25-22.060, 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.

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Petition for approval of experimental)
Rider FTA-2 (Firm Transportation)
Aggregation Service 2), and modifications)
to imbalance cashout provisions of Rider)
FTA program, by Peoples Gas System.)

Docket No. 990935-GU

Submitted for Filing:

2-16-00

OFFER OF SETTLEMENT

FLORIDA PUBLIC SERVICE COMMISSION
LEGAL DIVISION

In the interests of reaching a mutually acceptable resolution to the issues in this docket and eliminating the need for hearing, Tampa Electric Company d/b/a Peoples Gas System ("Peoples Gas" or the "Company"), by and through its undersigned attorneys, hereby proposes the following Offer of Settlement:

1. On July 19, 1999, Peoples Gas filed a petition for approval of an experimental Firm Transportation Aggregation 2 ("FTA-2") Rider. The Commission permitted Rider FTA-2 to become effective by operation of law (and it is currently in effect), but the petition, as amended on August 18, 1999, was set for a full evidentiary hearing by Order No. PSC-99-2122-PCO-GU, issued October 25, 1999. This hearing is currently scheduled for February 22, 2000.

2. In setting this petition for hearing, the Commission expressed its concern about allegations that Peoples Gas' marketing affiliate, TECO Gas Services, had already effectively gained control of the market for transportation service by soliciting and reaching agreements with new gas customers along the route of Peoples Gas' new pipeline extension in southwest Florida, prior to approval of the proposed Rider FTA-2.

3. The Commission staff has thoroughly investigated all allegations concerning the marketing activities of TECO Gas Services, including those mentioned in Order No. PSC-99-2122-

DOCUMENT NUMBER-DATE

02045 FEB 16 8

FPSC-RECORDS/REPORTING

PCO-GU, and has determined that such allegations are without merit.

4. Further, the Commission staff has expressed concern about the provision of proposed Rider FTA-2 that requires gas suppliers/marketers to bring on new customers that represent incremental load to Peoples Gas' system before being able to offer transportation service to Peoples Gas' existing sales service customers.

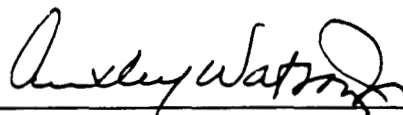
5. As currently in effect, Rider FTA-2 provides that its availability will expire on September 30, 2000. To alleviate the Commission staff's concern with the proposed Rider FTA-2, Peoples Gas agrees that:

- (A) it will, not later than July 31, 2000, submit to the Commission for approval new tariff sheets which, after such new tariff sheets become effective, will make transportation service available on reasonable terms and conditions to not less than 300 non-residential customers of the Company each month, and
- (B) it will not seek to extend the availability of Rider FTA-2 beyond September 30, 2000 unless the new tariff sheets referenced in paragraph (A) above have not become effective by that date.

In consideration of these agreements, Rider FTA-2 shall be approved, or permitted to remain in effect without approval. The Commission staff agrees to exercise reasonable efforts to review the new tariff sheets referenced in paragraph (A) above on an expedited basis and make a recommendation to the Commission in time for such new tariff sheets to become effective by October 1, 2000. If such new tariff sheets have not become effective on that date, Staff agrees to support an extension of the availability of Rider FTA-2 until the effective date of such new tariff sheets.

6. This Offer of Settlement is made for settlement purposes only, i.e., for resolving the issues in this docket and eliminating the need for hearing in this docket.
7. This Offer of Settlement shall become null and void if not approved in its entirety.

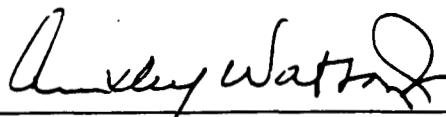
Respectfully submitted this 15th day of February, 2000.



Ansley Watson, Jr.
Macfarlane Ferguson & McMullen
P. O. Box 1531
Tampa, Florida 33601-1531
Telephone: (813) 273-4200 or -4321
Facsimile: (813) 273-4396 or -4397
Attorneys for Peoples Gas System

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing motion has been furnished, via facsimile and regular U.S. Mail, to Wm. Cochran Keating, IV, Esquire, Staff Counsel, Florida Public Service Commission, Capital Circle Office Center, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, this 15th day of February, 2000.



Ansley Watson, Jr.

M E M O R A N D U M

FEBRUARY 18, 2000

RECEIVED FPSC

FEB 18 PM 2:34

RECORDS AND
REPORTING

TO: DIVISION OF RECORDS AND REPORTING

FROM: DIVISION OF LEGAL SERVICES (C. Keating) *WCK RVE*

RE: DOCKET NO. 990935-GU - PETITION FOR APPROVAL OF
EXPERIMENTAL RIDER FTA-2 (FIRM TRANSPORTATION AGGREGATION
SERVICE 2) AND MODIFICATIONS TO IMBALANCE CASHOUT
PROVISIONS OF RIDER FTA PROGRAM, BY TAMPA ELECTRIC
COMPANY D/B/A PEOPLES GAS SYSTEM.

0343-PTH

Attached is a PREHEARING ORDER, with attachments, to be issued
in the above-referenced docket. (Number of pages in order -11)

WCK/jb
Attachment
cc: Division of Electric and Gas
I: 990935po.wck

ATTACHMENT(S) NOT ON-LINE

pg 2
MUST GO TODAY

*3 mailed
RAR.*