



Public Service Commission

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RECORDS AND REPORTING
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DATE: JUNE 8, 2000

TO: DIRECTOR, DIVISION OF RECORDS AND REPORTING (BAYO)

FROM: DIVISION OF COMPETITIVE SERVICES (S. BROWN, BULECZA-BANKS, MAKIN)
DIVISION OF ECONOMIC REGULATION (L. ROMIG)
DIVISION OF LEGAL SERVICES (C. KEATING) *CRBZ Wally*
RUE For WCK

RE: DOCKET NO. 000502-GU - PETITION FOR APPROVAL OF SPECIAL CONTRACT WITH MAX-PAK CORPORATION BY TAMPA ELECTRIC COMPANY D/B/A PEOPLES GAS SYSTEM.

AGENDA: 06/20/2000 - REGULAR AGENDA - PROPOSED AGENCY ACTION - INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: NO CRITICAL DATES

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\CMP\WP\000502.RCM

CASE BACKGROUND

On April 12, 2000, Tampa Electric Company d/b/a Peoples Gas System (Peoples) filed a petition for approval of a special contract with Max-Pax Corporation (Max-Pax). Max-Pax owns and operates a box manufacturing facility in Lakeland, Florida. Max-Pax has been served by Peoples since September 1998. Based on Max-Pax's current consumption level of 130,000 therms annually, it does not qualify for a discounted rate under Peoples existing tariff offerings. The proposed special contract would grant Max-Pax a rate lower than the stated tariff rate in return for Max-Pax's commitment to remain on the gas system for three years.

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DISCUSSION OF ISSUES

ISSUE 1: Should the Commission approve Peoples' petition for approval of a special contract with Max-Pax Corporation?

RECOMMENDATION: No. The Commission should not approve Peoples' petition for a special contract rate with Max-Pax Corporation. (BROWN, BULECZA-BANKS, MAKIN, L. ROMIG)

STAFF ANALYSIS: Max-Pax has been served by Peoples since 1998. During 1999, Max-Pax contacted Peoples and expressed dissatisfaction with its current rates. At Max-Pax's request, two meetings were held (April 14, and June 6, 1999) to discuss applicable rates. During both meetings, Peoples advised Max-Pax that the existing tariffs did not provide an option to reduce the tariff rates to a customer whose consumption level was less than 500,000 therms annually. Max-Pax threatened to switch to diesel fuel if Peoples would not reduce its rate.

In January 2000, Peoples discovered that Max-Pax had, in fact, switched to diesel fuel in December 1999. In response to the information, Peoples contacted Max-Pax to discuss the future use of gas in the facility. As a result of the meeting (held in February 2000), Peoples and Max-Pax entered into a proposed special contract. As a result of the special contract, Max-Pax agreed to take transportation service from Peoples Gas at the tariff rate, until such time as the special contract is approved by the Commission.

Under the contract, Max-Pax will receive a confidential contract rate, in return, Max-Pax agrees to remain a Peoples customer for the upcoming three-year period. The petition states that Peoples will not seek to recover the differential in revenues resulting from the special contract. Upon further clarification, Peoples explained that what they meant by that statement was that they would not impose a per therm charge on the other customers to collect the revenue differential. Peoples would not commit to including the impact of the differential in its rate of return reports.

Historically, the Commission has recognized that a gas utility's inability to reduce rates to customers that consume large quantities of gas, could have a detrimental impact on the financial viability of the gas utility. In Order No. 14965, issued September 17, 1985, the Commission stated that:

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[w]hatever the causes of that narrowing gap [between the price of natural gas and the alternate fuels], we shall not wait until significant load had been lost to act because such losses could adversely affect both the utility and its remaining customers and be irreversible. Accordingly, we propose to provide the petitioners... with the flexibility they need to compete with the alternative fuels available to their interruptible customers.

The Commission has authorized Peoples and several other regulated gas utilities to file tariffs establishing a separate rate class for "Contract Interruptible Service" (CIS) and "Contract Transportation Service" (CTS). These rate schedules are referred to as the utility's "flex" or "flexible" rate schedules. Peoples' CIS and CTS rate permits Peoples to offer an interruptible customer a contract rate that is as low as one cent per therm plus the customer charge, in order to compete with alternative fuel. These two tariffs, however, require that the customer meet a threshold consumption level of 500,000 therms annually to qualify for a discount. Customers need not have operable alternative fuel facilities, but must merely prove the viability of the alternative fuel.

The Commission's basis for allowing such discounts is that the loss of such a large consuming customer, could have a devastating affect on the financial viability of the utility.

In this case, however, the total customer charge and non-gas energy charge revenue generated from Max-Pax at the current rates is \$28,718. The proposed discounted rate will result in a reduction to the current \$28,718 revenue contribution. The discounted rate is contained in the special contract, filed pursuant to Section 366.093, Florida Statutes, with a request for specified confidential treatment. Based on Peoples most current rate of return report, Peoples' total revenues for the year ending March 31, 2000, are \$267,215,000.

Peoples has indicated that there are two reasons for offering Max-Pax a rate reduction: 1) Max-Pax has operable alternative fuel facilities, and 2) Max-Pax is considering the addition of a second production shift which could increase its gas needs from 130,000 therms annually to 300,000 therms annually.

Staff believes the two reasons Peoples relies upon to obtain approval of the contract are not compelling. In staff's opinion,

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a special contract is unnecessary. Currently, Peoples' CIS and CTS rate schedules allow Peoples to reduce its tariff rates for entities that can show the delivered price and availability of an alternate fuel warrant a reduction to the existing non-gas energy charge. These tariffs became effective June 17, 1997. Under the CIS and CTS tariffs, the customer must agree to reduce or cease using gas upon notification by Peoples. Max-Pax has agreed to abide by the same terms for interruption.

The only notable differences between Peoples' CTS tariff and the special contract involve the applicable term, the consumption threshold, and rate flexibility. The special contract specifies a set rate for the three-year contract term, while the tariff requires a term not less than one year. As mentioned previously, the tariff requires the customer meet a minimum consumption threshold of 500,000 therms annually. The special contract allows Peoples to offer a lower rate to Max-Pax that currently consumes 130,000 therms annually. The tariff allows, but does not require, Peoples to flex the rate upwards when the alternative fuel price rises. The special contract provides for a set rate for three years.

Based on the similarities between the special contract and the tariff rate, Staff contends that a mere modification to the threshold limit would relieve the need for a special contract.

Peoples' second reason to support approval of the contract relates to the addition of a second production shift. In its petition, Peoples states that the second shift could increase the gas needs from 130,000 to 300,000 therms annually.

The potential for an increase in consumption does not warrant approval of a special contract. While the increase in consumption would increase the revenue contribution, there is no documentation to support that the second shift will, in fact, be added.

Staff believes that offering a discount to Max-Pax is discriminatory. There are several customers that consume the same or even greater quantities of gas than Max-Pax. Staff does not believe that the total revenue loss of \$28,718 can be considered a "significant" loss causing irreversible harm, the basis for which the Commission approved the concept of flexible rate provisions.

Staff recommends that Peoples' petition for a special contract with Max-Pax be denied. While staff would agree that some revenue contribution to fixed costs is better than zero, the issue of discrimination outweighs the revenue contribution that would be

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derived from the discounted rate. As an alternative, Staff suggested to Peoples that it develop a new tariff or modify an existing tariff, to allow all similarly situated customers to qualify for a discount. This alternative would reduce the discriminatory aspect of the discount, and eliminate the need for numerous special contracts.

ISSUE 2: Should this docket be closed?

RECOMMENDATION: Yes. If no person whose substantial interests are affected files a request for a Section 120.57(1), Florida Statutes, hearing with 21 days of the order, the order will become final and effective upon the issuance of a consummating order. Because no further action will be required, this docket should be closed. (C. KEATING)

STAFF ANALYSIS: Yes. If no person whose substantial interests are affected files a request for a Section 120.57(1), Florida Statutes, hearing with 21 days of the order, the order will become final and effective upon the issuance of a consummating order. Because no further action will be required, this docket should be closed. (C. KEATING)