



MESSER CAPARELLO & SELF, P.A.

Attorneys At Law

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June 26, 2009

VIA ELECTRONIC MAIL

Ms. Ann Cole, Commission Clerk
Office of Commission Clerk
Room 110, Easley Building
Florida Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, Florida 32399-0850


Re: Docket No. 080366-GU

Dear Ms. Cole:

Enclosed for filing on behalf of Florida Public Utilities Company is Florida Public Utilities Company's Cross-Petition in the above referenced docket.

Thank you for your assistance with this filing.

Sincerely yours,



Norman H. Horton, Jr.

NHH/amb
Enclosures

cc: Ms. Cheryl Martin
Parties of Record

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for rate increase by)
Florida Public Utilities Company's)
Gas Division)
_____)

Docket No. 080366-GU
Date Filed: June 26, 2009

CROSS-PETITION OF FLORIDA PUBLIC UTILITIES COMPANY

COMES NOW, Florida Public Utilities Company ("FPUC") through its undersigned pursuant to Section 120.57, Florida Statutes, and Rule 25-22.029, Florida Administrative Code, herewith files this Cross-Petition and states:

1. The name and address of the agency affected and the docket number is:

Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850
Docket No. 080366-GU

2. The name and address of the utility is:

Florida Public Utilities Company
Post Office Box 3395
West Palm Beach, Florida 33402-3395

3. The names and addresses of the persons authorized to receive notices and communications with respect to this docket are:

Norman H. Horton, Jr.
Messer, Caparello & Self, P. A.
2618 Centennial Place
Post Office Box 15579
Tallahassee, FL 32317-5579

Ms. Cheryl Martin
Controller
Florida Public Utilities Company
P.O. Box 3395
West Palm Beach, Florida 33402-3395

4. On June 17, 2009, the Citizens of the State of Florida by the Office of Public Counsel (“OPC”) filed a Petition Protesting Portions of the Proposed Agency Action protesting the action of the Commission in Order No. PSC-09-0375-PAA-GU issued May 27, 2009.

5. FPUC received a copy of the Petition filed by OPC on June 17, 2009.

6. The Order which is the subject of the Petition is an order approving increases in the rates and charges for natural gas service provided by FPUC. The Company is thus substantially affected by this protest.

7. FPUC is not protesting the provisions of the Order issued by the Commission; in fact, the Company would agree with the Order and assert that it was the appropriate resolution of the petition for rate increase filed by the Company. However, Rule 25-22.029(3), Florida Administrative Code, permits other substantially affected parties to file a cross-petition identifying additional issues to be addressed when a protest has been filed by another party and the purpose of this Cross-Petition is to identify additional issues to be addressed if the Commission proceeds with the Petition filed by the OPC.

8. In the Petition filed by the OPC, it is alleged that the rate base, NOI and revenue requirement are overstated due in part to the current effects of a potential merger with Chesapeake Utilities. The OPC identified no specific issues associated with the potential merger but similar to their arguments presented to the Commission at the Commission Agenda May 5, 2009, they simply argue that effects of the potential merger have not been identified and accounted for by the Company. Since the merger, if it occurs, would take place, at the earliest, late in the test year, the arguments offered by OPC continue to be misleading as there are no effects on the test year. OPC has offered no evidence that there is any affect on the test year relating to a potential merger and such a position

does little more than cause additional unnecessary expenses to be borne by the customers of the Company. The Company would reserve its objections, responses, and assertions and ability to identify issues with respect to the effects of the potential merger until it has had an opportunity to review such issues.

9. Apart from the alleged merger related issues, if any, the OPC has attached a list of potential issues to its petition. FPUC requests that the proposed issue list be expanded to include the following:


a. What is the appropriate amount of additional rate case expense as a result of the protest?

b. What is the appropriate amount of pension curtailment expense to be included in the test year?

c. What is the appropriate amount of expenses associated with environmental liability?

10. FPUC would request that this matter be scheduled for hearing and resolution on an expedited basis. The Commission has already conducted an audit of the Company and both staff and the OPC have developed a substantial amount of information through discovery and data requests.

Respectfully submitted this 26th day of June, 2009.


NORMAN H. HORTON, JR.
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Post Office Box 15579
Tallahassee, FL 32317
(850) 222-0720

Attorneys for Florida Public Utilities Company

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that true and correct copies of the foregoing have been served by Electronic Mail and /or U. S. Mail this 26th day of June, 2009 upon the following:

Ralph Jaeger, Esq.
Office of General Counsel
Florida Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, FL 32399-0850

Patricia Christensen
Associate Public Counsel
Office of Public Counsel
c/o The Florida Legislature
111 West Madison St., Room 812
Tallahassee, FL 32399-1400


NORMAN H. HORTON, JR.