

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Purchased gas adjustment (PGA) true-up.

DOCKET NO. 20210003-GU
ORDER NO. PSC-2021-0400-PHO-GU
ISSUED: October 26, 2021

PREHEARING ORDER

Pursuant to Notice and in accordance with Rule 28-106.209, Florida Administrative Code (F.A.C.), a Prehearing Conference was held on October 13, 2021, in Tallahassee, Florida, before Commissioner Andrew Giles Fay, as Prehearing Officer.

APPEARANCES:

BETH KEATING, and GREGORY M. MUNSON, ESQUIRES, Gunster Law Firm, 215 South Monroe Street, Suite 601, Tallahassee, Florida 32301
On behalf of Florida City Gas (FCG).

CHRISTOPHER T. WRIGHT, ESQUIRE, 700 Universe Boulevard, Juno Beach, Florida 33408
On behalf of FCG.

BETH KEATING, ESQUIRE, Gunster Law Firm, 215 South Monroe Street., Suite 601, Tallahassee, Florida 32301
On behalf of Florida Public Utilities Company and Florida Public Utilities Company – Fort Meade (FPUC).

ANDREW M. BROWN, ESQUIRE, Macfarlane Law Firm, Post Office Box 1531, Tampa, Florida 33601-1531
On behalf of Peoples Gas System (PGS).

ANDY SHOAF, VICE PRESIDENT, St. Joe Natural Gas Company Incorporated, Post Office Box 549, Port St. Joe, Florida 32457-0549
On behalf of St. Joe Natural Gas Company, Inc. (SJNG).

RICHARD GENTRY, PATRICIA A. CHRISTENSEN, CHARLES REHWINKEL, ANASTACIA PIRRELLO, ALI WESSLING, and STEPHANIE MORSE, ESQUIRES, Office of Public Counsel, c/o The Florida Legislature, 111 West Madison Street, Room 812, Tallahassee, Florida 32399-1400
On behalf of the Citizens of the State of Florida (OPC).

STEFANIE-JO OSBORN, ESQUIRE, Florida Public Service Commission, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850
On behalf of the Florida Public Service Commission (Staff).

MARY ANNE HELTON, ESQUIRE, Deputy General Counsel, Florida Public Service Commission, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850

Advisor to the Florida Public Service Commission.

KEITH C. HETRICK, ESQUIRE, General Counsel, Florida Public Service Commission, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850
Florida Public Service Commission General Counsel.

I. CASE BACKGROUND

The Purchased Gas Adjustment Cost Recovery Clause provides for recovery of prudently incurred costs of purchased gas and upstream pipeline capacity. As part of the Commission's continuing purchased gas adjustment true-up proceedings, an administrative hearing in this docket is set for November 2-4, 2021.

II. CONDUCT OF PROCEEDINGS

Pursuant to Rule 28-106.211, F.A.C., this Prehearing Order is issued to prevent delay and to promote the just, speedy, and inexpensive determination of all aspects of this case.

III. JURISDICTION

This Commission is vested with jurisdiction over the subject matter by the provisions of Chapter 366, Florida Statutes (F.S.), including Sections 366.04, 366.05, and 366.06, F.S. This hearing will be governed by said Chapter and Chapters 25-7, 25-22, and 28-106, F.A.C., as well as any other applicable provisions of law.

IV. PROCEDURE FOR HANDLING CONFIDENTIAL INFORMATION

Information for which proprietary confidential business information status is requested pursuant to Section 366.093, F.S., and Rule 25-22.006, F.A.C., shall be treated by the Commission as confidential. The information shall be exempt from Subsection 119.07(1), F.S., pending a formal ruling on such request by the Commission or pending return of the information to the person providing the information. If no determination of confidentiality has been made and the information has not been made a part of the evidentiary record in this proceeding, it shall be returned to the person providing the information. If a determination of confidentiality has been made and the information was not entered into the record of this proceeding, it shall be returned to the person providing the information within the time period set forth in Section 366.093, F.S. The Commission may determine that continued possession of the information is necessary for the Commission to conduct its business.

It is the policy of this Commission that all Commission hearings be open to the public at all times. The Commission also recognizes its obligation pursuant to Section 366.093, F.S., to protect proprietary confidential business information from disclosure outside the proceeding. Therefore, any party wishing to use any proprietary confidential business information, as that term is defined in Section 366.093, F.S., at the hearing shall adhere to the following:

- (1) When confidential information is used in the hearing that has not been filed as prefiled testimony or prefiled exhibits, parties must follow the procedures for providing confidential electronic exhibits to the Commission Clerk prior to the hearing.
- (2) Counsel and witnesses are cautioned to avoid verbalizing confidential information in such a way that would compromise confidentiality. Therefore, confidential information should be presented by electronic exhibit.

If a confidential exhibit has been admitted into evidence, the copy provided to the court reporter shall be retained in the Office of Commission Clerk's confidential files. If such material is admitted into the evidentiary record at hearing and is not otherwise subject to a request for confidential classification filed with the Commission, the source of the information must file a request for confidential classification of the information within 21 days of the conclusion of the hearing, as set forth in Rule 25-22.006(8)(b), F.A.C., if continued confidentiality of the information is to be maintained.

V. PREFILED TESTIMONY AND EXHIBITS; WITNESSES

Testimony of all witnesses to be sponsored by the parties (and Staff) has been prefiled and 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 timely and appropriate objections. Upon insertion of a witness' testimony, exhibits appended thereto may be marked for identification. Each witness will have the opportunity to orally summarize his or her testimony at the time he or she takes the stand. Summaries of testimony shall be limited to three minutes.

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. After all parties and Staff have had the opportunity to cross-examine the witness, 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.

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.

The parties shall avoid duplicative or repetitious cross-examination. Further, friendly cross-examination will not be allowed. Cross-examination shall be limited to witnesses whose testimony is adverse to the party desiring to cross-examine. Any party conducting what appears to be a friendly cross-examination of a witness should be prepared to indicate why that witness's direct testimony is adverse to its interests.

VI. ORDER OF WITNESSES

Each witness whose name is preceded by a plus (+) sign may be stipulated to by the parties, subject to confirmation by each Commissioner's office that the witness may be excused.

<u>Witness</u>	<u>Proffered By</u>	<u>Issues #</u>
<u>Direct</u>		
+Miguel Bustos	FCG	1 – 6
+Derrick M. Craig	FPUC	1 – 7
+Jeffrey B. Bates	FPUC	3, 4
+Karen L. Bramley	PGS	1 – 6
+Charles A. Shoaf	SJNG	1 – 7

VII. BASIC POSITIONS

FCG: FCG has appropriately calculated its true-up amounts and PGA Factor as shown in the Company's positions on Issue Nos. 1 through 6 below. The maximum levelized PGA Factor based on the Company's expected winter cost of gas is 79.055 cents per therm after the regulatory assessment fees. FCG submits that this is the appropriate maximum levelized PGA Factor for application to Sales Customers' bills beginning the first billing cycle in January 2022 through the last billing cycle in December 2022 and continuing until modified by subsequent order of the Commission.

FPUC: FPUC has appropriately calculated its true-up amounts and purchased gas adjustment factor as shown in the Company's positions on Issues 1-6 and asks that the Commission approve the Company's proposed PGA Factor for 2022.

PGS: The Commission should approve PGS's final PGA true-up amount of \$599,738 over-recovery for the period January 2020 through December 2020; its actual/estimated PGA true-up amount of \$8,332,074 under-recovery for the

period January 2021 through December 2021; and its levelized PGA (cap) factor of \$1.19163 per therm for the period January 2022 through December 2022. (Bramley)

SJNG: The appropriate over (under) recovery amounts and purchased gas adjustment factors are shown in the company's positions on Issues 1 – 5.

OPC: The utilities bear the burden of proof to justify the recovery of costs they request in this docket. The utilities must carry this burden regardless of whether or not the Interveners provide evidence to the contrary. Further, the utilities bear the burden of proof to support their proposal(s) seeking the Commission's adoption of policy statements (whether new or changed) or other affirmative relief sought. Even if the Commission has previously approved a program, recovery of a cost, factor, or adjustment as meeting the Commission's *own* requirements, the utilities still bear the burden of demonstrating that the costs submitted for final recovery meet any statutory test(s) and are reasonable in amount and prudently incurred. Further, recovery of even prudently incurred costs is constrained by the Commission's obligation to set fair, just, and reasonable rates. Further, pursuant to Section 366.01, Florida Statutes, the provisions of Chapter 366 must be liberally construed to protect the public welfare.

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 stated herein.

VIII. ISSUES AND POSITIONS

Type 2 stipulations of Issues 1-7 are set forth at Section X of this Order.

IX. EXHIBIT LIST

<u>Witness</u>	<u>Proffered By</u>	<u>Description</u>
<u>Direct</u>		
Miguel Bustos	FCG	MB-1
		Calculation of FCG's final PGA true-up amount related to the twelve-month period ended December 31, 2020

<u>Witness</u>	<u>Proffered By</u>		<u>Description</u>
Miguel Bustos	FCG	MB-2	Commission prescribed forms supporting calculation of FCG's Actual/Estimated True-Up amount for the current period January 2021 through December 2021 and FCG's proposed 2022 maximum levelized PGA Factor
Derrick M. Craig	FPUC	DMC-1	Final Fuel Over/Under Recovery (Schedule A-7) Issue 1
Derrick M. Craig	FPUC	DMC-2	Schedules E-1, E-1/R, E-2, E-3, E-4, E-5 Issues 3-6
Karen L. Bramley	PGS	KLB-1	Calculation of final true-up for January 2020 – December 2020 (Schedule A-7)
Karen L. Bramley	PGS	KLB-2	Calculation of estimated true-up for January 2021 – December 2021; total true-up for January 2020 – December 2020; calculation of PGA factor for January 2022 – December 2022 (Schedules E-1 through E-5)
Charles A. Shoaf	SJNG	CAS-1	Final Over/Under A-7
Charles A. Shoaf	SJNG	CAS-2	PGA Summary of estimates for the projected period. E-1
Charles A. Shoaf	SJNG	CAS-3	Calculation of true-up amount current period (7 months actual 5 months estimated) E-2
Charles A. Shoaf	SJNG	CAS-4	Transportation purchases system supply and end use for the projected period. E-3

<u>Witness</u>	<u>Proffered By</u>		<u>Description</u>
Charles A. Shoaf	SJNG	CAS-5	Calculation of true-up amount for the projected period based on the prior period and Current period (7 mths actual, 5 mths estimated) E-4
Charles A. Shoaf	SJNG	CAS-6	Therm Sales and Customer Data (For the projected Period) E-5
Charles A. Shoaf	SJNG	CAS-7	Reprojected PGA for Current Period (7 mths actual, 5 mths estimated) E-1/R

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

X. PROPOSED STIPULATIONS

As referenced in Section VIII, there are Type 2 proposed stipulations on all issues in this docket. A Type 2 stipulation occurs on an issue when the utility and the staff, or the utility and at least one party adversarial to the utility, agree on the resolution of the issue and the remaining parties (including staff if they do not join in the agreement) do not object to the Commission relying on the agreed language to resolve that issue in a final order. FCG, FPUC, PGS, and SJNG have reached proposed stipulations on all issues, and OPC states the following:

The OPC takes no position on the issues nor does it have the burden of proof related to them. As such, the OPC represents that it will not contest or oppose the Commission taking action approving the proposed stipulations between the Company and another party or Staff as a final resolution of the issues. No person is authorized to state that the OPC is a participant in, or party to, any of the stipulations on these issues, either in this docket, in an order of the Commission or in a representation to a Court.

ISSUE 1: **What are the final purchased gas adjustment true-up amounts for the period January 2020 through December 2020?**

STIPULATION:

Florida City Gas	\$500,185	Over-recovery
FPUC & FPUC-Fort Meade	\$3,199,135	Under-recovery
Peoples Gas System	\$599,738	Over-recovery
St. Joe Natural Gas Company	\$38,770	Under-recovery

ISSUE 2: **What are the actual/estimated purchased gas adjustment true-up amounts for the period January 2021 through December 2021?**

STIPULATION:

Florida City Gas	\$1,334,903	Under-recovery
FPUC & FPUC-Fort Meade	\$5,120,126	Over-recovery
Peoples Gas System	\$8,332,074	Under-recovery
St. Joe Natural Gas Company	\$83,782	Over-recovery

ISSUE 3: **What are the total purchased gas adjustment true-up amounts to be collected or refunded during the period January 2022 through December 2022?**

STIPULATION:

Florida City Gas	\$834,718	Under-recovery
FPUC & FPUC-Fort Meade	\$1,920,991	Over-recovery
Peoples Gas System	\$7,732,336	Under-recovery
St. Joe Natural Gas Company	\$45,013	Over-recovery

ISSUE 4: What are the levelized purchased gas cost recovery (cap) factors for the period January 2022 through December 2022?

STIPULATION:

Florida City Gas	79.055 cents/therm
FPUC & FPUC-Fort Meade	105.04 cents/therm
Peoples Gas System	119.163 cents/therm
St. Joe Natural Gas Company	61.70 cents/therm

ISSUE 5: What should be the effective date of the new purchased gas adjustment charge for billing purposes?

STIPULATION:

The charge should be effective for all meter readings on or after January 1, 2022, beginning with the first or applicable billing cycle for the period January 2022 through December 2022 and continuing until modified by subsequent order of this Commission.

ISSUE 6: Should the Commission approve revised tariffs reflecting the new purchased gas adjustment charges determined to be appropriate in this proceeding?

STIPULATION:

The Commission should approve revised tariffs reflecting the new purchased gas adjustment charges determined to be appropriate in this proceeding. The Commission should direct staff to verify that the revised tariffs are consistent with the Commission's decision.

ISSUE 7: Should this docket be closed?

STIPULATION:

No. While a separate docket number is assigned each year for administrative convenience, this is a continuing docket and should remain open.

XI. PENDING MOTIONS

There are no pending motions at this time.

XII. PENDING CONFIDENTIALITY MATTERS

There are no pending confidentiality matters at this time.

XIII. POST-HEARING PROCEDURES

If no bench decision is made, each party shall file a post-hearing statement of issues and positions. A summary of each position, set off with asterisks, shall be included in that statement. If a party's position has not changed since the issuance of this 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, F.A.C., 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.

XIV. RULINGS

Opening statements, if any, shall not exceed three minutes per party.

Each witness shall be given three minutes for a summary of their testimony.

The parties shall provide cross-examination exhibits, including impeachment exhibits, to the Commission Clerk by the close of business on October 25, 2021, following the procedures set forth in Attachment A. The exhibits that are pre-filed and designated as cross-examination or impeachment exhibits will not be viewed by opposing witnesses or opposing counsel or otherwise have their contents or identity communicated to such witnesses or counsel.

It is therefore,

ORDERED by Commissioner Andrew Giles Fay, 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 Andrew Giles Fay, as Prehearing Officer, this 26th day of October, 2021.



ANDREW GILES FAY
Commissioner and Prehearing Officer
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Copies furnished: A copy of this document is provided to the parties of record at the time of issuance and, if applicable, interested persons.

SFO

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Subsection 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; or (2) 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 Office of Commission Clerk, in the form prescribed by Rule 25-22.0376, 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.

ATTACHMENT A

Requirements related to providing Cross-Examination Exhibits prior to Hearing

By October 25, 2021, each party must provide the Commission Clerk an electronic copy of all cross-examination exhibits, including impeachment exhibits, the party plans to use during the hearing. All cross-examination exhibits must be provided to the Clerk's Office on either USB flash drives or CDs. Confidential documents must be placed on one USB flash drive or CD, and non-confidential exhibits must be placed on a different or separate USB flash drive or CD. This is because the Clerk's Office will process the confidential exhibits, and will transmit all non-confidential exhibits to the General Counsel's Office for processing. All USB flash drives or CDs provided to the Clerk's Office must be clearly labeled as confidential or non-confidential, and the label must also include the Docket Number(s) and the name of the party providing the exhibits.

Each party must also provide to the Clerk by October 25, 2021, a table listing the exhibit numbers and short titles of each cross-examination exhibit provided to the Clerk. Pursuant to Rule 25-22.006(3), F.A.C., a notice of intent to request confidential classification must be filed for all confidential information.

Each party must pre-number each exhibit with the following sequential numbering system that clearly denotes confidential exhibits. For example, PGS will pre-identify its cross-examination exhibits PGS-1, PGS-2, PGS-3, etc. All confidential exhibits must include the letter "C" placed after the number. Thus, if PGS's third exhibit is confidential, it will be labeled PGS-3C.

Each exhibit must be saved as a separate electronic file, and each file must be labeled with the exhibit number that reflects the information contained in the exhibit. The exhibit number will serve as the filename in the virtual folder during the hearing. Each exhibit must also include a cover page that includes the exhibit number. In addition, each exhibit must include sequentially numbered pages. The page numbers must be placed in the upper right-hand corner of each page.

The confidential and non-confidential cross-examination exhibits will be made available to the parties in virtual folders the day before the hearing. The cross-examination exhibits will be made available to the parties for the sole purpose of providing the witnesses and their counsel with the opportunity to print the exhibits or download them to their electronic devices for use during the hearing.¹ The parties must not view or read the exhibits prior to the hearing. Parties will be provided usernames and passwords by Commission staff that will give them access to the confidential exhibits and any other confidential information that will be used during the hearing. By October 25, 2021, parties must provide the Commission Clerk with the list of names of those persons who should be given a user name and password to access confidential information.

¹ Microsoft Chrome is the best internet browser to use to access the virtual folder.