

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Petition of Peoples Gas) DOCKET NO. 920295-GU
Systems, Inc. for approval of) ORDER NO. PSC-92-0474-FOF-GU
rate Schedule CG, City Gate Gas) ISSUED: 06/09/92
Sales Agreement and Modifications)
to its purchased gas adjustment)
(PGA) clause.)
_____)

The following Commissioners participated in the disposition of this matter:

THOMAS M. BEARD, Chairman
SUSAN F. CLARK
J. TERRY DEASON
LUIS J. LAUREDO

NOTICE OF PROPOSED AGENCY ACTION

ORDER APPROVING RATE SCHEDULE CG, CITY GATE GAS SALES
AGREEMENT AND MODIFICATIONS TO PURCHASED GAS ADJUSTMENT CLAUSE

BY THE COMMISSION:

NOTICE is hereby given by the Florida Public Service Commission that the action discussed herein is preliminary in nature and will become final unless a person whose interests are adversely affected files a petition for a formal proceeding, pursuant to Rule 25-22.029, Florida Administrative Code.

Prior to Florida Gas Transmission Company (FGT) becoming an open access transporter, Peoples Gas System, Inc. (PGS) entered into Capacity Agreements with several of its large-volume interruptible customers for firm transportation capacity on FGT's system. The agreements provided several of PGS' large volume interruptible customers with a means of obtaining competitively priced gas by transporting customer owned gas over the FGT system.

FGT became an open-access pipeline on August 1, 1990. Service agreements made at that time required conversions from sales service to transportation service to be "phased in" over a five-year period. Because phase-in requirements restricted PGS's customers' access to transportation, the capacity agreements permitted PGS to use its firm sales capacity entitlement on FGT on-behalf-of the customers in an amount generally equal to the difference between the transportation capacity committed to the customer and the customer's full gas requirements. They let the customer get all the gas it needed during the transition, or phase in period.

DOCUMENT NUMBER-DATE

05949 JUN-9 1992

FPSC-RECORDS/REPORTING

Under the existing Capacity Agreements, PGS' contract demand customers buy gas directly from third parties and PGS takes title as agent to the gas for purposes of transportation only. This meets a provision in FGT's FERC tariff requiring that the "shipper" (PGS) have title to gas transported by FGT. The agreements are typically for terms of three to five years. They require each customer to reimburse PGS for all charges associated with both firm transportation (FTS-1) and firm sales service (G) which PGS commits to use on-behalf-of the customer. The reimbursements are required whether or not the full amount of such capacity is actually used.

Ongoing proceedings before the FERC may limit the ability of PGS and other local distribution companies (LDCs) to make their contracted-for capacity on interstate pipelines available to customers behind the LDCs' city gates (such as PGS contract demand customers). What this means is that PGS would no longer be permitted to transport customer owned gas over the FGT pipeline system on-behalf-of its large-volume interruptible customers or any customer.

PGS' petition in this docket proposes an arrangement whereby certain of its largest customers would arrange for PGS to buy gas from certain producers at a price agreed to between the customer and the seller. PGS would then hold title to the gas and would have the gas transported to its city gate. At the city gate, PGS would resell the gas to the customer at the same price paid to the seller, plus costs associated with transportation. The customer would then pay PGS for transportation on the PGS system for final delivery. In essence, it is the same transaction which takes place today, except PGS holds full title to the gas while it is on the FGT system. FERC calls this type of transaction a buy/sell agreement and considers them a type of capacity brokering. In the Mega-NOPR docket, which has resulted in Order No. 636, the FERC is doing away with most capacity brokering.

In an attempt to maintain flexibility for its large-volume interruptible customers, PGS filed a petition requesting that we approve a new tariff for PGS's large-volume interruptible customers. PGS's five largest customers would currently be affected by this proposed tariff. Specifically, PGS has asked us to approve PGS's new Rate Schedule, to approve the form of its new City Gate Agreement, and to approve modifications to its purchased gas adjustment (PGA) clause.

The company's proposed City Gate Service Rate Schedule CG and City Gate Sales Agreement is best viewed as a bridging measure. When the restructuring of the interstate pipeline industry is complete, there may be other, better mechanisms to assure the

continuation of large gas transportation contracts. This matter will be revisited then. We believe that approval of PGS' petition will result in very little change. Disapproval, on the other hand, could result in great harm.

Approval will permit PGS' largest customers to continue to transport gas during the restructuring of the natural gas industry by the FERC. They and all of PGS' customers will benefit by the continuation of revenues for gas transported. No customers will be harmed. Transactions being made since August 1990 will continue with minor revisions.

Disapproval, on the other hand, could cause the directly affected customers to be unable to get transportation capacity on FGT. They stand to lose major invested capital that was, in some cases, invested on the basis of long-term direct-purchase gas contracts and pricing associated with those contracts. PGS' other customers could be faced with higher rates to make up for the lost revenues, after reductions for adjustments for plant no longer used and useful.

The FERC, in Docket No. RM91-11-000, the so-called "Mega-NOPR", may limit or eliminate the use by LDC's of their contracted-for capacity on interstate pipelines for transporting gas on-behalf-of customers. Because of that possibility, PGS proposes to enter into a City Gate Gas Sales Agreement (Attachment 1) pursuant to the proposed Rate Schedule CG (Attachment 2) with five of its customers that each use over 50 million therms of gas per year. The agreements provide for purchase, transportation and resale of gas by PGS. The proposed CG rate schedule and sales agreement should eliminate any questions that may arise with respect to whether PGS's use of its firm transportation capacity on FGT in the manner contemplated by the Capacity Agreements will be permitted in the future, or at least, during the transition period of pipeline industry restructuring.

PGS' petition was filed April 1, 1992. On April 8, the FERC issued Order No. 636, its final order in the Mega-NOPR docket. The order remains subject to requests for rehearing and to court review. As of the date of this Order, however, the April 8 order embodies the FERC's position on future regulation of the interstate natural gas industry. The FERC issued two companion orders with Order 636, in Algonquin Gas Transmission Company, Docket CP90-134.002, et al (59 FERC 61,032) and in El Paso Natural Gas Company, Docket Nos CP88-433.001, et al (59 FERC 61,031). The Algonquin order deals with capacity brokering; the El Paso order deals with what the FERC calls buy/sell agreements.

The nature of the transaction proposed here by PGS fits FERC's description of a buy/sell agreement. Order 636 describes a buy/sell agreement: "Under those arrangements an LDC will purchase gas in the production area from an end user or a merchant designated by an end user. The LDC will ship the gas on its own firm capacity and sell the gas to the end user at the retail delivery point." (Order 636, p 71)

After defining buy/sell arrangements, Order 636 states, "... such agreements should not be necessary because, under the capacity releasing requirement, firm capacity holders will be able to release unwanted firm capacity to persons seeking firm capacity." (Order 636, p.71) However, the FERC will grandfather buy/sell deals existing today or in existence prior to completion of the pipeline restructuring process. They can continue if the firm capacity holder does not give up its capacity in the restructuring proceeding. Our approval of this rate schedule and city gate sales agreement will allow PGS and its largest customers to have buy/sell agreements in place before the restructuring of FGT is complete. The schedule for FGT's compliance filing with the FERC is November 1992. If no such agreements are in place, the large transporters could end up losing all capacity rights during the restructuring process.

Four separate provisions of Order 636 discuss ways for an LDC to transport gas for a customer or to transfer its capacity to a customer so the customer can continue to transport. The four provisions deal with agency arrangements (p. 54), buy/sell agreements (p. 72), capacity release mechanisms (p. 77) and the right of firm shippers (p. 107). They are internally inconsistent. The discussion of agency arrangements and the rights of firm shippers appear to permit PGS to transport gas on FGT for customers, using PGS capacity. The discussion of buy/sell arrangements and capacity release appear to require PGS to release its capacity to its affected customers. However, the order is clear that existing buy/sell agreements will be permitted to continue.

When the dust has settled after the industry restructuring, we will review this matter to determine whether there is a better way to ensure continuing transportation to all customers behind an LDC's city gate. In the meantime we approve the proposed City Gate Service Rate Schedule CG and City Gate Sales Agreement as filed by the company.

The company has also proposed a modification to its purchased gas adjustment (PGA) clause. The purchased gas adjustment clause acts as a pass-through mechanism for costs associated with the

purchase of gas. PGS has proposed a modification to its PGA clause (Attachment 4) which would enable the Utility to recover its cost for the gas purchased from the customers' suppliers directly from the customers, rather than under the current PGA clause. Thus, the PGA clause would not apply to gas purchased from the Utility pursuant to the City Gate Sales Agreement. Likewise, the cost of gas purchased by PGS for resale under the City Gate Sales Agreement would be excluded in calculating PGS's weighted average cost of gas (WACOG). We believe that this proposed modification to the existing PGA clause would ensure that the unaffected customers would not be obligated for any costs associated with city gate sales transactions.

It is therefore

ORDERED by the Florida Public Service Commission that the City Gate Service Rate Schedule CG and the City Gate Sales Agreement filed April 1, 1992, by Peoples Gas System, Inc. are hereby approved. It is further

ORDERED that the modifications to the purchased gas adjustment clause of Peoples Gas Systems, Inc., as set forth in the petition filed April 1, 1992, by Peoples Gas System, Inc., are hereby approved. It is further

ORDERED that this Order shall become final and this docket shall be closed unless an appropriate petition for formal proceeding is received by the Division of Records and Reporting, 101 East Gaines Street, Tallahassee, Florida 32399-0870, by the close of business on the date indicated in the Notice of Further Proceedings or Judicial Review. It is further

ORDERED that should this Order become final as described above, Peoples Gas System, Inc., shall file its Rate Schedule CG within thirty days of the expiration of the protest period. The Rate Schedule CG, the City Gate Agreement, and the modification to the PGA clause, shall become effective on one day's notice after publication.

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By ORDER of the Florida Public Service Commission, this 9th
day of June, 1992.



STEVE TRIBBLE, Director
Division of Records and Reporting

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NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.59(4), 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.

The action proposed herein is preliminary in nature and will not become effective or final, except as provided by Rule 25-22.029, Florida Administrative Code. Any person whose substantial interests are affected by the action proposed by this order may file a petition for a formal proceeding, as provided by Rule 25-22.029(4), Florida Administrative Code, in the form provided by Rule 25-22.036(7)(a) and (f), Florida Administrative Code. This petition must be received by the Director, Division of Records and Reporting at his office at 101 East Gaines Street, Tallahassee, Florida 32399-0870, by the close of business on June 30, 1992.

In the absence of such a petition, this order shall become effective on the day subsequent to the above date as provided by Rule 25-22.029(6), Florida Administrative Code.

Any objection or protest filed in this docket before the issuance date of this order is considered abandoned unless it satisfies the foregoing conditions and is renewed within the specified protest period.

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If this order becomes final and effective on the date described above, any party adversely affected may request judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or by the First District Court of Appeal in the case of a water or wastewater utility by filing a notice of appeal with the Director, Division of Records and Reporting and filing a copy of the notice of appeal and the filing fee with the appropriate court. This filing must be completed within thirty (30) days of the effective date of this order, pursuant to Rule 9.110, Florida Rules of Appellate Procedure. The notice of appeal must be in the form specified in Rule 9.900(a), Florida Rules of Appellate Procedure.