

Subpart B

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## ARTICLE I. IN GENERAL

**Secs. 101—150. Reserved.**

## ARTICLE II. PALATKA GAS AUTHORITY\*

### Sec. 151. Definitions.

Whenever used in this Act [article], unless a different meaning clearly appears from the context:

- (a) *Gas transmission system.* The term "gas transmission system," shall mean and include a supply of natural gas, whether acquired from wells or deposits or from pipe line or other source of supply and a pipe line or lines, plant and system for the acquisition and the transportation, transmission and delivery of natural gas or a plant for the manufacture of gas and the transportation, transmission and delivery thereof; together with all appurtenances thereto and all property, real, personal or mixed used or useful in connection therewith, including franchises, rights-of-way and easements. A gas transmission system may include facilities for making deliveries of gas to industrial and institutional users and to line tap residential and commercial users as well as to gas distribution systems.
- (b) *Gas distribution system.* The term "gas distribution system" shall mean and include a plant and system for the distribution and sale of gas and gas services in a municipality and the surrounding territory, including the sale and distribution of gas to residential, commercial, industrial, institutional and other users, together with all appurtenances thereto and all property, real, personal or mixed used or useful in connection therewith, including franchises, rights-of-way and easements.
- (c) *System.* The term "system" shall mean and include a gas transmission system or systems and a gas distribution system or systems, or any one or more thereof.
- (d) *City.* The term "city" shall mean the City of Palatka, Florida.
- (e) *City commission.* The term "city commission" shall mean the city commission of the City of Palatka, Florida, as provided for in the Charter of said city.
- (f) *Authority.* The term "authority" shall mean the five (5) members hereinafter provided for and constituting the department of the government of the City of Palatka herein created and established.

(Laws of Fla., ch. 59-1679, § 1)

### Sec. 152. Created; established; composition.

There is hereby created and made a part of the government of the City of Palatka, Florida, a department to be known and designated as the "Palatka Gas Authority," which shall consist of five (5) members, selected as hereinafter provided.

(Laws of Fla., ch. 59-1679, § 2)

### Sec. 153. Appointment and terms of members.

The city commission shall, immediately upon this Act [article] becoming a law, appoint five (5) members to the Palatka Gas Authority, two of whom shall serve until the first regular meeting of the city commission in January of 1960, two of whom shall serve until the first regular meeting of the city commission in January of 1961, and one of whom shall serve until the first regular meeting of the city commission in January of 1962. After the aforesaid initial appointment for the terms aforesaid the city commission shall appoint, at the first regular meeting of the city commission in January of each year, such members as are necessary to fill expiring terms, each appointee to serve a term of three (3) years.

(Laws of Fla., ch. 59-1679, § 3)

### Sec. 154. Qualifications of members; forfeiture of office for designated causes; filling of vacancies resulting from disqualification.

Every person appointed as a member of said authority shall, at the time of the appointment, be

\***Editor's note**—The Palatka Gas Authority was ratified by the electors of the city at an election held on November 10, 1959.

a qualified elector of the City of Palatka, and any member of the authority who ceases to possess any of the qualifications herein specified shall immediately forfeit his office and the city commission shall fill the vacancy so created in the manner provided in this Act [article]. No person who is otherwise employed by the city or who holds any other office in the city, whether elected or appointed, shall be eligible for appointment as a member of the authority, and any member of the authority who becomes otherwise employed by the city or is elected or appointed to any other office in the city shall immediately forfeit his office as a member and the city commission shall fill the vacancy so created in the manner provided in this Act [article].

(Laws of Fla., ch. 59-1679, § 4)

**Editor's note**—A phrase in the above section requiring that authority members be property owners has been deleted in light of cases such as *City of Phoenix v. Kolodziejewski*, 399 U.S. 209 (1970), *Hill v. Stone*, 421 U.S. 289 (1975), and *Turner v. Fouche*, 396 U.S. 346 (1970), holding similar provisions unconstitutional.

**Sec. 155. City manager ex-officio member without voting privileges; reports to commission.**

The city manager of the City of Palatka shall be an ex-officio member of said authority and shall attend its meetings, but shall have no vote in the proceedings of said authority. He shall make such reports to the city commission concerning the authority as shall be required by the city commission.

(Laws of Fla., ch. 59-1679, § 5)

**Sec. 156. Annual organizational meeting; election of officers.**

After their appointment the first members of the authority herein provided for shall meet and organize. At such meeting the members shall choose from their number a president and they shall also choose a secretary, who may but need not be a member of the authority. Thereafter said officers shall be elected by the members of the authority at an annual meeting to be held during the month of January of each year and within seven (7) days after the first regular meeting in January of the city commission.

(Laws of Fla., ch. 59-1679, § 6)

**Sec. 157. Appointment of new members; filling vacancies; compensation of members.**

The city commission shall, by a majority vote, appoint all new members of said authority, and all vacancies shall be filled in like manner. The members of the authority shall receive such compensation as may be fixed by the city commission for that purpose, and which may be changed from time to time by amendment of such ordinance.

(Laws of Fla., ch. 59-1679, § 7)

**Sec. 158. Removal of members; procedure for appeal of removal to board of arbitrators; selection of board.**

The city commission may, for cause, remove any member of the authority within the term for which he shall have been appointed, after giving to such member a copy of the charges against him and an opportunity to be heard in his defense. If after such hearing the city commission shall remove such member the member so removed may appeal such removal to a board of arbitrators in the following manner:

- (a) *Notice to city commission of appeal; selection of one arbitrator by removed member.* The member so removed shall send to the city commission a written notice of appeal so that the same shall reach the city clerk prior to the next regular meeting of the city commission, which notice shall name one arbitrator selected by such removed member. The city clerk shall read such notice to the city commission at the said next regular meeting of the city commission.
- (b) *Selection of an arbitrator by city commission; notice to removed member of selection.* The city commission shall, at its regular meeting following the meeting at which such notice of appeal is read by the city clerk, select one arbitrator and immediately notify the removed member in writing of the arbitrator so selected.
- (c) *Selection of third arbitrator by two previously selected, or judge of circuit court in case of disagreement.* The two arbitrators

so selected shall then meet, within ten (10) days after the appointment of the arbitrator by the city commission, and jointly select a third arbitrator. In case the two arbitrators first selected cannot agree, then the third arbitrator shall be appointed by the judge of the circuit court for Putnam County, Florida.

- (d) *Hearing within certain time for review of removal.* Within ten (10) days after the selection of the third arbitrator the three arbitrators shall meet and review the removal, at which time the city commission, or its authorized representatives, and the removed member may present charges and defenses.
- (e) *Decision of board final; nonreviewable; notice to city manager and removed member.* The three arbitrators shall render a decision, by majority vote, either determining that there is just cause for removal and confirming the removal or reinstating the removed member, and shall notify the city manager and the removed member in writing of their said action, within ten (10) days after such meeting for review, and the decision of the arbitrators shall be final and nonreviewable.

(Laws of Fla., ch. 59-1679, § 8)

#### **Sec. 159. Regular and special meetings.**

Regular meetings of the authority shall be held at such times and such places as the members shall determine. The president of the authority, or two (2) members of the authority, may call special meetings of the authority upon written notice to each member, served personally, or left with some member of his family above the age of fifteen years, at his usual place of residence, provided, however, if for any reason such notice cannot be served as herein provided, and there is present a majority of the members of the authority, such members shall meet in accordance with the call and record in the minutes the reason for not serving the notice herein provided for.

(Laws of Fla., ch. 59-1679, § 12)

#### **Sec. 160. Quorum for meetings; presiding officer.**

Three (3) members of the authority shall constitute a quorum at any meeting. The president of the authority shall preside at all meetings of the authority; provided, however, that the members of the authority may designate one of their number to preside in the absence of the president and to call special meetings when the president shall be absent or unable to call such meetings.

(Laws of Fla., ch. 59-1679, § 13)

#### **Sec. 161. Minutes of meetings required; meetings and records public.**

A permanent record of the minutes of all meetings of said authority shall be kept, and all meetings of the authority shall be held open to the public, and all records, minutes and books of the authority shall be at all times open to the inspection of any citizen of the City of Palatka.

(Laws of Fla., ch. 59-1679, § 14)

#### **Sec. 162. Rules of procedure; resolutions adopting rules or regulations to be written; vote required for adoption of rules or regulations and establishing rates.**

The authority shall determine its own rules of procedure and order of business; provided, however, that all resolutions adopting or changing rules or regulations governing the use, control and operation of the gas system or systems and services shall be submitted in writing; provided further that the affirmative vote of three (3) members of the authority shall be necessary to adopt any such resolution or to establish or change rates or charges for the use of the gas system or systems and services.

(Laws of Fla., ch. 59-1679, § 15)

#### **Sec. 163. Powers of the authority.**

The authority shall have the following powers and duties:

- (a) *Management, operation, etc., of gas system plants without recourse to city commission.* The authority shall have full power and authority over the manage-

ment, supervision and control of the gas system or systems and gas plants of the city and shall make all rules or regulations governing the use, control and operation of the said gas system or systems and gas plants, without the necessity of any approval by the city commission, notwithstanding the provisions of F.S. ch. 180.

- (b) *Rates and charges.* The authority is hereby given the full power and authority to establish just and equitable rates or charges to be paid to the city for the use of the gas system or systems and services by each person, firm or corporation whose premises are served thereby, notwithstanding the provisions of F.S. ch. 180.
- (c) *Powers subject to requirements of revenue certificates.* The powers conferred by this section upon the authority shall, however, be subject to any requirements which are now or may hereafter be imposed by revenue certificates which are now or may hereafter be issued by the city for the purchase, construction and extension of a gas system or systems, or any ordinances and resolutions adopted by the city for such purpose.

(Laws of Fla., ch. 59-1679, § 9)

**Sec. 164. General manager—Appointment.**

The authority shall by a majority vote appoint, subject to the approval of the city commission, a general manager who shall serve at the pleasure of the authority and shall be paid such salary or compensation as shall be determined by the city commission. Such appointment shall not take effect unless and until the city commission shall have approved the same.

(Laws of Fla., ch. 59-1679, § 16)

**Sec. 165. Same—Powers and duties.**

The general manager shall have the following powers and duties:

- (a) To appoint or employ all subordinate officers and employees of the city for the purpose of said gas authority. All officers

and employees of the authority so appointed or employed by the general manager may be removed by the general manager.

- (b) To manage, control and supervise the operation of the gas system or systems of the city under such rules and regulations as shall be prescribed by the authority.
- (c) To attend all meetings of the authority and take part in the discussions, but having no vote.
- (d) To recommend to the authority for adoption such measures as he may deem necessary or expedient in the interest of the efficient operation of the gas system or systems of the city.
- (e) To perform such other duties as the authority shall prescribe.

(Laws of Fla., ch. 59-1679, § 17)

**Sec. 166. Administration and application of revenues of gas systems.**

All revenues derived and obtained from the operation of the gas system or systems of the city shall be administered and applied only for the purposes and in the manner following:

- (a) *Payment into funds for purposes required by terms of revenue certificates.* There shall be paid into such funds or accounts and for such purposes as may be required by the terms of revenue certificates which are now or may hereafter be issued for the purpose of financing the cost of acquiring and constructing a gas system or systems, and ordinances and resolutions adopted by the city in connection therewith, such portions of the revenue of the said gas system or systems as may be required to be so paid by said revenue certificates, ordinances and resolutions, until such time as all of said revenue certificates have been paid in full.
- (b) *Use of surplus moneys.* Any revenue of the gas system or systems remaining after making full provision for the requirements of sub-paragraph (a) of this section may be used by the city for any other

municipal purposes; provided, however, that the city shall make provision for a reasonable reserve for the cost of operating, maintaining and repairing the gas system or systems and paying the cost of extensions, enlargements or additions to or replacement of the capital assets of said gas system or systems, prior to appropriating such revenue to other municipal purposes.

(Laws of Fla., ch. 59-1679, § 10)

**Sec. 167. Expenditures in connection with gas system or systems to be made solely from revenues thereof.**

All revenues derived and obtained from the operation of the gas system or systems of the city shall be kept separate and apart from other money of the city, and the city commission or other officers of the city, shall not, under any circumstances, transfer any other money or revenue of the city to use of or for the gas system or systems, or accounts in connection with such gas system or systems in excess of the amounts received by the city from the operation of the gas system, for any purpose whatsoever. All expenses of the operation, maintenance and repair of the gas system or systems, all costs of extensions, enlargements or additions to or replacement of the capital assets of such gas system or systems, all principal and interest on revenue certificates, issued for the purchase and construction of a gas system or systems, and all other costs or expenses of any other kind of the said gas system or systems, shall be paid for solely from the revenues of the gas system or systems of the city.

(Laws of Fla., ch. 59-1679, § 11)

**Sec. 168. Reports.**

The authority shall submit to the city commission such reports of its activities at such times and in such detail as the city commission may require.

(Laws of Fla., ch. 59-1679, § 18)

**Sec. 169. Act not to deprive city of existing powers.**

Nothing herein contained shall be construed to deprive the City of Palatka or any of its officers of

any powers and duties under special acts or general laws of the state, except such as are clearly inconsistent with this Act [article], and where not otherwise provided for herein the provisions of the special acts constituting the charter of the city shall apply.

(Laws of Fla., ch. 59-1679, § 19)

**Sec. 170. City may supplement provisions by ordinance or resolution.**

The city may supplement this Act [article] by the adoption of ordinances and resolutions not inconsistent herewith and may adopt ordinances providing for the enforcement of this act and prescribing penalties for violation of its provisions.

(Laws of Fla., ch. 59-1679, § 20)

**Sec. 171. Act not to prejudice revenue certificates.**

Nothing herein contained, except sections 10 and 11 [sections 166 and 167 of this article], shall affect the terms and provisions of revenue certificates which may be issued by the City of Palatka for the purchase, construction and extension of gas system or systems, or any ordinances and resolutions adopted by the city for such purpose. Sections 10 and 11 hereof [sections 166 and 167 of this article] shall, however, be effective notwithstanding the provisions of any such revenue certificates, ordinances or resolutions.

(Laws of Fla., ch. 59-1679, § 21)

