STATE OF FLORIDA

Commissioners:
JOE GARCIA, CHAIRMAN
J. TERRY DEASON
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E. LEON JACOBS, JR.

DIVISION OF APPEALS
DAVID SMITH
DIRECTOR
(850) 413-6245

Public Service Commission

February 21, 2000

Mr. Carroll Webb
Joint Administrative Procedures
Committee
Room 120 Holland Building
Tallahassee, Florida 32399

Re: Docket No. 960725-GU - Proposed Rule 25-7.0335, F.A.C., Transportation Service

Dear Mr. Webb:

Enclosed is an original copy of the following materials concerning the above referenced proposed rule:

1. A copy of the rule.

2. A copy of the F.A.W. notice.

3. A statement of facts and circumstances justifying the proposed rule.

4. A federal standards statement.

5. A statement of estimated regulatory costs.

If there are any questions with respect to this rule, please do not hesitate to call on me.

Sincerely,

Mary Anne Helton

Mary Anne Helton
Associate General Counsel

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Enclosures
cc: Division of Records & Reporting

DOCUMENT NUMBER-DATE
02382 FEB 21 00
FPSC-RECORDS/REPORTING

25-7.0335 Transportation Service

(1) Each utility must offer the transportation of natural gas to all non-residential customers. Each utility may offer the transportation of natural gas to residential customers when it is cost-effective to do so.

(2) In order to meet the objective set out in subsection (1), each utility must file a transportation service tariff with the Commission by July 1, 2000. Each tariff must include in its rules and regulations the utility's policy governing the transportation of natural gas. Each tariff must also comply with Rule 25-7.033, F.A.C. In addition, each tariff must set out the following terms and conditions:

(a) The utility is responsible for the transportation of natural gas purchased by the customer. The utility is not responsible for providing natural gas to a customer that elects service under the transportation service tariff. If the customer's marketer, broker, or agent fails to provide the customer with natural gas, the utility may disconnect service to the customer or provide natural gas under its otherwise applicable tariff provision.

(b) For customers that engage a marketer, broker, or agent to arrange and oversee the customer's gas purchase, the utility must obtain from that customer a statement that identifies the legal name, street address, mailing address if different from street address, and phone number of the marketer, broker, or

CODING: Words underlined are additions; words in ~~struck through~~ type are deletions from existing law.

agent.

(c) At the customer's request, the utility must provide an historical monthly usage summary with sufficient detail so that the customer can calculate its Maximum Daily Transportation Quantity (MDTQ). The utility may charge a cost-based fee for this summary.

(3) The utility must apply its transportation service tariff provisions in the same manner to all similarly situated affiliated and non-affiliated marketers, brokers, and agents.

Specific Authority: 350.127(2), 366.05(1), F.S.

Law Implemented: 366.03, F.S.

History: New

CODING: Words underlined are additions; words in ~~struck through~~ type are deletions from existing law.

NOTICE OF PROPOSED RULEMAKING

FLORIDA PUBLIC SERVICE COMMISSION

DOCKET NO. 960725-GU

RULE TITLE:	RULE NO.:
Transportation Service	25-7.0335

PURPOSE AND EFFECT: To require investor-owned natural gas utilities to offer transportation service to all non-residential customers.

SUMMARY: The rule requires investor-owned natural gas utilities to file tariffs in which transportation service is offered to all non-residential customers. The rule also establishes certain minimal conditions for gas transportation service. The rule requires natural gas utilities to provide, at a customer's request, the customers historical monthly usage summary. Natural gas utilities that offer transportation service are not responsible for providing natural gas to customers that elect service under a transportation service tariff.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: The rule may reduce the amount of regulatory assessment fees (RAFs) collected by the Commission. The rule may also reduce the amount of taxes collected by the Department of Revenue (DOR) while increasing DOR's collection costs. The total impact and possible losses for governmental entities is unknown. All of the investor-owned natural gas utilities in the state will be affected by the rule. Four of these utilities meet the statutory definition of a small business. Two of the small business utilities have transferred their pipeline capacity to another entity and the other two reported minimal costs to comply with the rule. All of the utilities affected reported divergent implementation costs. The impact on small cities and small counties is unknown, and depends on the governmental entity's status as a gas purchaser.

Any person who wishes to provide information regarding the statement of estimated regulatory costs, or to provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

SPECIFIC AUTHORITY: 350.127(2), 366.05(1), F.S.

LAW IMPLEMENTED: 366.03, F.S.

WRITTEN COMMENTS OR SUGGESTIONS ON THE PROPOSED RULE MAY BE SUBMITTED TO THE FPSC, DIVISION OF RECORDS AND REPORTING, WITHIN 21 DAYS OF THE DATE OF THIS NOTICE FOR INCLUSION IN THE RECORD OF THE PROCEEDING.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD AT THE TIME, DATE, AND PLACE SHOWN BELOW (IF NOT REQUESTED, THIS HEARING WILL NOT BE HELD):

TIME AND DATE: 9:30 A.M., Wednesday, April 5, 2000.

PLACE: Room 152, Betty Easley Conference Center, 4075 Esplanade Way, Tallahassee, Florida.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Director of Appeals, Florida Public Service Commission, 2540 Shumard Oak Blvd., Tallahassee, Florida 32399-0862, (850) 413-

6245.

THE FULL TEXT OF THE PROPOSED RULE IS:

25-7.0335 Transportation Service

(1) Each utility must offer the transportation of natural gas to all non-residential customers. Each utility may offer the transportation of natural gas to residential customers when it is cost-effective to do so.

(2) In order to meet the objective set out in subsection (1), each utility must file a transportation service tariff with the Commission by July 1, 2000. Each tariff must include in its rules and regulations the utility's policy governing the transportation of natural gas. Each tariff must also comply with Rule 25-7.033, F.A.C. In addition, each tariff must set out the following terms and conditions:

(a) The utility is responsible for the transportation of natural gas purchased by the customer. The utility is not responsible for providing natural gas to a customer that elects service under the transportation service tariff. If the customer's marketer, broker, or agent fails to provide the customer with natural gas, the utility may disconnect service to the customer or provide natural gas under its otherwise applicable tariff provision.

(b) For customers that engage a marketer, broker, or agent to arrange and oversee the customer's gas purchase, the utility must obtain from that customer a statement that identifies the legal name, street address, mailing address if different from street address, and phone number of the marketer, broker, or agent.

(c) At the customer's request, the utility must provide an historical monthly usage summary with sufficient detail so that the customer can calculate its Maximum Daily Transportation Quantity (MDTQ). The utility may charge a cost-based fee for this summary.

(3) The utility must apply its transportation service tariff provisions in the same manner to all similarly situated affiliated and non-affiliated marketers, brokers, and agents.

Specific Authority: 350.127(2), 366.05(1), FS

Law Implemented: 366.03, FS

History: New

NAME OF PERSON ORIGINATING PROPOSED RULE: Wayne Makin, Division of Electric and Gas.

NAME OF SUPERVISOR OR PERSONS WHO APPROVED THE PROPOSED RULE: Florida Public Service Commission.

DATE PROPOSED RULE APPROVED: February 15, 2000

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: Volume 25, Number 8, February 26, 1999, and Volume 25, Number 39, October 1, 1999.

If any person decides to appeal any decision of the Commission with respect to any matter considered at the rulemaking hearing, if held, a record of the hearing is necessary. The appellant must ensure that a verbatim record, including testimony and evidence forming the basis of the appeal is made. The Commission usually makes a verbatim record of rulemaking hearings.

Any person requiring some accommodation at this hearing because of a physical impairment should call the Division of Records and Reporting at (850) 413-6770 at least 48 hours prior to the hearing. Any person who is hearing or speech impaired should contact the Florida Public Service Commission by using the Florida Relay Service, which can be reached at: 1-800-955-8771 (TDD).

Rule 25-7.0335
Docket No. 960725-GU

STATEMENT OF FACTS AND CIRCUMSTANCES JUSTIFYING RULE

Rule 25-7.0335 is based on 20 years of changes in the gas industry and follows the lead established by over half of the 50 states.

During the 1970's, the nation experienced interstate natural gas shortages. Prices were high, purchases were few, and producers halted exploration. These conditions were the catalyst to reform the natural gas industry. Congress enacted the Natural Gas Policy Act of 1978 (NGPA) to phase out producer price regulation so market forces would determine the price of natural gas. Gas prices then fell, consumers demanded more gas, and producers drilled exploratory wells. However, NGPA did not promote and expand access to the wellhead market as hoped.

In 1985, the Federal Energy Regulatory Commission (FERC) issued Order No. 436 to promote competition at the wellhead as well as to respond to economic changes within the industry. Order No. 436 instituted open-access, non-discriminatory transportation. Downstream customers now had the option of buying gas from entities other than the pipelines. In 1989, Congress enacted the Decontrol Act to repeal all remaining price controls on wellhead sales. The House Committee on Energy and Commerce Report stated that FERC's current competitive open access pipeline system should be maintained, and urged FERC to improve "the competitive structure in order to maximize the benefits of decontrol." United Distribution Companies v. Federal Energy Regulatory Commission, 88 F.3d 1105, 1125 (U.S. App. D.C. 1996), citing H. R. Rep. No. 29, 101st Cong., 1st Sess. 6 (1989).

The purpose of Order No. 436 was to promote the flow of natural gas from the producer to end-users. Order No. 436 allowed pipelines to phase in transportation, and most responded by offering transportation service. To encourage further competition, FERC issued Order No. 636 and mandated open access in 1992. Order No. 636 required interstate pipelines to unbundle or separate sales and transportation services. Pipelines could no longer sell gas. FERC expected gas prices to be more reflective of cost since pipelines no longer monopolized the commodity of natural gas.

Since 1993, Florida Gas Transmission (FGT) has been an open access provider in Florida. In addition to its direct customers, FGT transports gas for natural gas and electric utilities. Natural gas is actively traded on the commodity exchange, enabling sellers to reach buyers with the highest bids. Open access gives gas utilities more flexibility with respect to prices since they are no longer restricted to purchasing gas from the pipeline. According to Florida's gas utilities, open access has saved them money.

Even though the Commission has never required utilities to transport gas, several utilities sought permission to offer transportation service to large customers. Peoples Gas System, Inc. (Peoples) has offered transportation service to large end-use customers since June of 1986.[1] In the 1990's, other utilities followed Peoples' lead and offered transportation service to large end-use customers.[2] The first transportation tariffs approved by the Commission established a volume threshold that customers must meet to be eligible for transportation service. The current customer thresholds range from 100,000 to 500,000 therms per year. Only South Florida Natural Gas, Sebring Gas System, and Indiantown Gas Company, the smallest natural gas utilities, do not transport gas because their capacity is released to third party marketers.

The Commission opened a docket in 1996 to evaluate the costs and benefits of reducing or removing the volume thresholds. The Commission staff conducted three two-day workshops to discuss open access, after which interested persons and parties could

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[1] In re: Peoples Gas System, Inc.'s Request for Approval of its Contract Transportation Service and Transportation Service Rate Schedules, Order No. 16229, 86 F.P.S.C. 6:224 (1986).

[2] The following orders represent the first transportation tariff approved for each of the listed utilities. Many of these utilities have since modified their transportation offerings. In re: Petition for approval of service agreement for firm transportation service with Florida Department of Management Services and Florida Department of Corrections, by St. Joe Natural Gas Company, Inc., Order No. PSC-96-0756-FOF-GU, 96 F.P.S.C. 6:181 (1996); In re: Petition of City Gas Company of Florida for Approval of Modifications to its Natural Gas Tariff to Establish Certain Terms and Conditions for Transportation, Order No. PSC-94-0681-FOF-GU, 94 F.P.S.C. 6:56 (1994); In re: Request for Approval of Tariff Modification for 100% Transportation of Natural Gas under FERC Order 636 by Florida Public Utilities, Order No. PSC-93-1697-FOF-GU, 93 F.P.S.C. 11:326 (1993); In re: Petition by the Florida Division of Chesapeake Utilities Corporation for approval of Large Volume Contract Transportation Service Rate Schedule and Gas Transportation Agreement with Mulberry Energy Company, Inc., Order No. PSC-92-0201-FOF-GU, 92 F.P.S.C. 4:291 (1992); In re: Petition for approval of a special contract rate for firm transportation service between Arizona Chemical Company and West Florida Natural Gas Company, Order No. 23636, 90 F.P.S.C. 10:447 (1990).

file comments. In the Fall of 1997, staff distributed a Model Tariff for offering transportation service to all non-residential customers. Only City Gas Company of Florida (City Gas) has eliminated thresholds and offered transportation to all of its non-residential customers.[3]

A notice of proposed rule development for Rule 25-7.0335 was published in the February 26, 1999, edition of the Florida Administrative Weekly (Vol. 25, No. 8). A workshop was requested and was held on March 24, 1999. Natural gas utilities and marketers participated in the workshop and filed post-workshop comments. Staff recommended that the Commission propose a rule to open up access for all non-residential customers at the August 31, 1999, Agenda Conference. The Commission denied staff's recommendation and instead voted to hold a Commission workshop to learn more about the issues surrounding open access. At the November 17, 1999, workshop, discussion centered around issues concerning the obligation to serve and supplier of last resort, stranded investment, potential for slamming, excess capacity, and marketing affiliations. The Commission voted to propose the rule on February 15, 2000.

STATEMENT ON FEDERAL STANDARDS

There is no federal standard on the same subject.

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[3] In re: Petition by City Gas Company of Florida to amend Small Commercial Transportation Service Rate Schedule, Order No. PSC-99-2399-TRF-GU, issued December 7, 1999.

MEMORANDUM

July 28, 1999

TO: DIVISION OF APPEALS (HELTON)

FROM: DIVISION OF AUDITING AND FINANCIAL ANALYSIS (HEWITT) CBH

SUBJECT: STATEMENT OF ESTIMATED REGULATORY COST FOR DOCKET NO. 960725-GU, PROPOSED NEW RULE 25-7.0335, F.A.C., TRANSPORTATION SERVICE

SUMMARY OF THE RULE

Proposed Rule 25-7.0335, F.A.C., Transportation Service, would require that natural gas investor owned utility companies, the local distribution companies (LDCs), offer all nonresidential customers unbundled transportation service for customer owned gas. The new rule would also provide the conditions for gas transportation including filing a transportation service tariff, obtaining from customers that use a marketer, broker, or agent information about those parties, and applying the transportation service tariff provisions in a nondiscriminatory manner. The LDCs would also be required, at a customer's request, to provide a historical monthly usage summary to enable the customer to calculate its Maximum Daily Transportation Quantity (MDTQ). A utility would not be responsible for providing natural gas to a customer that elects service under the transportation service tariff.

ESTIMATED NUMBER AND DESCRIPTION
OF INDIVIDUALS AND ENTITIES REQUIRED TO COMPLY

There are eight natural gas LDCs which would be subject to the proposed rule. Municipal and cooperative gas utilities and gas districts are not covered by this rule. Nonresidential customers of the natural gas LDCs would have the option of choosing unbundled gas transportation service with the new rule but are not required to do so. As of December 1998 there were 34,825 nonresidential customer accounts of Florida LDCs, other than those already on transportation or industrial tariffs.

An unknown number of marketers, brokers, and agents would have additional business opportunities with adoption of the rule.

RULE IMPLEMENTATION AND ENFORCEMENT COST AND IMPACT ON REVENUES FOR THE AGENCY AND OTHER STATE AND LOCAL GOVERNMENT ENTITIES

The Commission would have some additional costs with adoption of the proposed rule changes. A one time review of tariff filings and subsequent monitoring would be required but would be done by existing staff. Also, FPSC regulatory assessment fees would be impacted. When a gas customer buys its gas supply from other than the local distribution company, the LDC has less assessable revenues to count for FPSC regulatory assessment fees (RAFs). RAFs are collected at the rate of 0.5% on gross regulated LDC revenues and are estimated to be $1,881,051 for 1999. The actual loss of RAFs would be determined by the number of customers choosing transportation and the amount of their lost gas purchase revenues.

The option of shopping for the best gas price may reduce gas costs or increase revenues for a governmental entity that buys and uses or sells natural gas.

Another potential impact may be to the Department of Revenue (DOR) which collects gross receipts and sales and use taxes for the state. Currently, the utilities add the appropriate tax on customer bills and remit the collections to DOR. But, with the proposed rule, DOR may have increased collection costs and lost taxes when customers buy their gas from out-of-state or from third parties. One utility reported that it currently submits $680,000 of fuel sales tax annually on commercial sales, $280,300 gross receipts tax, and $56,100 in FPSC RAFs.

The total impact and possible losses are unknown at present.

ESTIMATED TRANSACTIONAL COSTS TO INDIVIDUALS AND ENTITIES REQUIRED TO COMPLY

There would be additional transaction costs to the LDCs to comply with proposed Rule 25-7.0335, F.A.C., because they would have to revise tariffs, metering, and billing, reallocate fixed pipeline capacity costs, and educate their employees, vendors, and customers.

Individual LDC reported impacts:

South Florida Natural Gas Company stated that the primary economic impacts associated with the proposed rule would be to cause imbalance in: management (both upstream and downstream), the Company's ability to pass pipeline penalties downstream to transport customers, and rate treatment regarding implementation and operating costs. South Florida cannot accurately estimate the associated costs until the Commission decides how to deal with these issues from a regulatory perspective.

St. Joe Natural Gas Company estimated $2,565 in actual equipment and installation start-up costs and $451 in recurring gross monthly expenses or $5,412 annually. Also, the Company stated that the cost of service becomes greater for a sales customer that elects to change to a transport customer.

Chesapeake Utilities Corporation, Central Florida Gas, estimated one-time costs:

- computer programming	$80,000-$200,000
- tariff changes, legal and administrative	4,000
- consumer education	15,000-25,000
- training	3,000-10,000
- equipment	10,000
Total One-time Costs	$112,000 - $249,000
Recurring Costs (annual):	
- staffing, one customer service clerk and one scheduler	$75,000
- customer awareness	5,000
Total Recurring Costs	$80,000

The Company also stated that if a nonresidential customer can contract for less capacity than they would otherwise, then an unsubscribed capacity would be charged to the remaining customers.

City Gas Company, NUI Corp., stated that the proposed rule, in the time in which it is proposed, should not cause any significant costs. The company has extensive experience with unbundling commercial customers in its largest regulated LDC territory with no significant cost increase. In the proposed time frame, the company would have the opportunity to realign its gas supply portfolios, with minimum cost impact. The LDC's FTS-1 contracts are expiring and companies can realign their portfolios. NUI found that in other regulated jurisdictions that telemetry equipment for small commercial customers was not necessary and that it could meter read and bill on customers' regular cycle.

Peoples Gas System

Summary of Cost Estimate

The table below summarizes the costs by category to comply with the proposed new rule, 25-7.0335, F.A.C. As shown, the cumulative cost to make transportation service available to all noncommercial customers is likely to be $13,300,000 in initial cost. Of this initial cost, $5,400,000 is operational and capital costs, $1,300,000 is gas price cost in the PGA and $6,600,000 is capacity cost transferred between customer classes in the PGA. The initial cost may range between $10,000,000 to over $20,000,000. The recurring annual cost is estimated to be $8,625,000. These costs reflect impacts to Peoples Gas's system only. No cost impacts to interstate pipelines, third-party marketers, governmental entities or any other effected parties have been included.

Category	Initial Cost			Annual Recurring Cost
	Minimum	Maximum	Likely	
Program and Tariff Development	$250,000	$250,000	$250,000	$25,000
Billing / Accounting and Customer Information System Upgrades	Replace $1,000,000	Replace $10,000,000	Replace $3,000,000	Replace $200,000
	Modify $700,000*	Modify $3,000,000*	Modify $1,000,000*	Modify $200,000*
Gas Management and Operation System Upgrades	$850,000	$850,000	$850,000	$100,000
Customer, Employee and Supplier Education	$300,000	$600,000	$400,000	$50,000
Implementation and General Administration	$500,000	$500,000	$500,000	$150,000
Customer Service and Support	$200,000	$850,000	$400,000	$200,000
Purchased Gas Adjustment Impacts	Gas Supply $1,800,000	Gas Supply $100,000	Gas Supply $1,300,000	Gas Supply $1,300,000
	Capacity LF $5,300,000	Capacity LF $7,900,000	Capacity LF $6,600,000	Capacity LF $6,600,000
	Stranded $16,000,000*	Stranded $16,000,000*	Stranded $16,000,000*	Stranded $16,000,000*
Total Cost To Comply With Rule	$10,200,000	$22,900,000	$13,300,000	$8,625,000

* Cost is not included in the Total Cost to Comply With Rule.

Peoples Gas cost estimates are conservative and assume an orderly development and implementation of transportation service to all non-residential customers. The requirement to file a tariff by March 31, 2000 may not permit an orderly implementation since many tasks associated with providing such extensive transportation service take many months or years to complete. In many cases the tasks are also sequential. To satisfy the deadline, many tasks would cost a premium to complete in time or would cause additional cost due to re-work or work around solutions.

One-time Estimated Cost Incurred by FPU.

Software upgrades	-Billing / Customer Information System	$900,000
	-Customized Programming	300,000
	-Gas Supply Management System	400,000
Training	-Customer Service, Marketing & Staff	30,000
Equipment Upgrades	-Gas Control	16,000
Customer Education		20,000
Fees	-Attorney	10,000
	-Consultant for tariffs and procedures	50,000
Advertising Expense		10,000
Internet Site Expense		3,000
Additional Telephone Service & Equipment		4,000
Total		**$1,743,000**

One-time Estimated Costs Incurred by FPU's Customers:

SCADA Remote Terminal Unit (one per large transportation customer)	$3,500
Total	**$3,500**

Annual Recurring Estimated Incremental Costs Incurred by FPU:

Software Maintenance	-Billing System / Customer Information System	$ 75,000
	- Gas Supply Management System	85,000
Training	- Customer Service, Marketing & Staff	5,000
Equipment Upgrades	- Gas Control	1,000
Additional Staffing	- Gas Control & Customer Service	90,000
	*Balancing Services as Delivery Point Operator	
	*Additional Record Keeping - Agency Agreements	
	*Additional Record Keeping - Capacity Tracking	
Customer Education		10,000
Fees	- Attorney	2,500
Advertising Expense		2,000
Internet Site Expense		3,000
Additional Telephone Service		3,000
Total		**$271,500**

Note: Transportation customers will also be responsible for FPUs Transportation Administration Fee.

FPU currently has annual pipeline capacity costs of approximately $4,700,000, and these costs are allocated via the Purchased Gas Adjustment (PGA) mechanism. Capacity would have to be allocated based on each customer's peak natural gas consumption. Fairly complex methodologies would have to be created to protect the residential customer base which accounts for over 80% of the Company's base revenue. Attributing more pipeline capacity costs to the residential customer may cause a significant erosion of such customers. This could result in the necessity of the Company to request rate increases for the remainder of its customers.

IMPACT ON SMALL BUSINESS, SMALL CITIES, OR SMALL COUNTIES

Four of the companies subject to the rule met the statutory definition of a small business. Two of the companies have transferred their pipeline capacity to another entity and the other two reported minimal costs to comply with the rule. Any additional direct impact on small cities or small counties would depend upon their status as a natural gas purchaser. If the entity buys for resale or use, it would have the option of transportation service and seeking less expensive gas supplies. If the entity remained on its present tariff, it may have to pay a larger pro-rata share of fixed costs arising from loss of energy customers that the LDC may flow through. These costs are unknown at this time.

cc: Mary Bane
Wayne Makin

gastrans.wpd