

ORIGINAL

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2000 APR -3 AM 11:20
DEPARTMENT OF STATE
TALLAHASSEE, FLORIDA
FILED

CERTIFICATION OF
PUBLIC SERVICE COMMISSION ADMINISTRATIVE RULES
FILED WITH THE
DEPARTMENT OF STATE

I do hereby certify:

/x/ (1) That all statutory rulemaking requirements of Chapter 120, F.S., have been complied with; and

/x/ (2) There is no administrative determination under subsection 120.56(2), F.S., pending on any rule covered by this certification; and

/x/ (3) All rules covered by this certification are filed within the prescribed time limitations of paragraph 120.54(3)(e), F.S. They are filed not less than 28 days after the notice required by paragraph 120.54(3)(a), F.S., and;

/x/ (a) Are filed not more than 90 days after the notice;
or

/ (b) Are filed not more than 90 days after the notice not including days an administrative determination was pending;
or

/ (c) Are filed more than 90 days after the notice, but not less than 21 days nor more than 45 days from the date of publication of the notice of change; or

/ (d) Are filed more than 90 days after the notice, but not less than 14 nor more than 45 days after the adjournment of

AFA _____
APP _____
CAF _____
CMU _____
CTR _____
EAG _____
LEG _____
MAS _____
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OTH _____

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FPSC-RECORDS/REPORTING

the final public hearing on the rule; or

 / (e) Are filed more than 90 days after the notice, but within 21 days after the date of receipt of all material authorized to be submitted at the hearing; or

 / (f) Are filed more than 90 days after the notice, but within 21 days after the date the transcript was received by this agency; or

 / (g) Are filed not more than 90 days after the notice, not including days the adoption of the rule was postponed following notification from the Joint Administrative Procedures Committee that an objection to the rule was being considered; or

 / (h) Are filed more than 90 days after the notice, but within 21 days after a good faith written proposal for a lower cost regulatory alternative to a proposed rule is submitted which substantially accomplishes the objectives of the law being implemented; or

 / (i) Are filed more than 90 days after the notice, but within 21 days after a regulatory alternative is offered by the small business ombudsman.

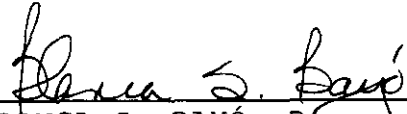
Attached are the original and two copies of each rule covered by this certification. The rules are hereby adopted by the undersigned agency by and upon their filing with the Department of State.

Rule No.

25-7.0335

Under the provision of subparagraph 120.54(3)(e)6., F.S.,
the rules take effect 20 days from the date filed with the
Department of State or a later date as set out below:

Effective: _____
(month) (day) (year)



BLANCA S. BAYÓ, Director
Division of Records & Reporting

Number of Pages Certified

(S E A L) —

MAH

1 25-7.0335 Transportation Service

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

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

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

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

CODING: Words underlined are additions; words in
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1 agent.

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

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

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

11 Law Implemented: 366.03, F.S.

12 History: New

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SUMMARY OF RULE

The rule requires investor-owned natural gas utilities to file tariffs in which transportation service is offered to all non-residential customers. In addition, the rule provides that a utility may provide transportation service to a residential customer if it is cost-effective to do so. 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 customer's 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 HEARINGS ON THE RULE

No hearing was requested and none was held.

FACTS AND CIRCUMSTANCES JUSTIFYING THE 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

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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

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

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 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

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).

non-residential customers.³

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.