

Ruth Nettles

090122-EG

From: Ann Bassett [abassett@lawfla.com]
Sent: Tuesday, September 29, 2009 2:54 PM
To: Katherine Fleming
Cc: Filings@psc.state.fl.us
Subject: Docket No. 090122-EG
Attachments: 2009-09-29, 090122, Letter to K Fleming concerning Staff Rec.pdf

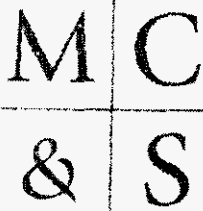
Ms. Fleming,

Attached is a letter from Norman H. Horton, Jr. concerning the Staff Recommendation in the above referenced docket.

Ann Bassett
Messer, Caparello & Self, P.A.
2618 Centennial Place (32308)
P.O. Box 15579
Tallahassee, FL 32317
Direct Phone: 850-201-5225
Fax No. 850-224-4359
Email Address: <abassett@lawfla.com>
Web Address: <www.lawfla.com>

9/29/2009

DOCUMENT NUMBER-DATE
10030 SEP 29 8
FPSC-COMMISSION CLERK



MESSER CAPARELLO & SELF, P.A.

Attorneys At Law

www.lawfla.com

September 29, 2009

VIA ELECTRONIC MAIL

Katherine Fleming, Esq.
Office of General Counsel
Florida Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, FL 32399-0850

Re: Docket No. 090122-EG; *Petition for approval of modifications to approved energy conservation programs, by Associated Gas Distributors of Florida.*

Dear Ms. Fleming:

Thank you for taking the time to speak with me recently regarding the recommendation in this docket and for your assistance in deferring the item from the last agenda. As I briefly explained to you, the recommendation to approve our petition, with which we agree, contains a recommended restriction which in our view eliminates the benefits of approval and causes us to have an issue with the recommendation.

In the recommendation, staff is generally supportive of the Conservation Demonstration and Development (CDD) Program for which AGDF sought approval on behalf of its member LDC's. However, even though staff supports research and development and recommends approval of the program, they also recommend that each member LDC submit a petition for approval of "... a specific project before recovery of any expenditures." We would submit that this preapproval requirement would negate the objective of the petition and savings to be realized as a result of this petition, would be contrary to the approach the Commission has taken with respect to similar research programs approved for electric utilities.

AGDF filed this petition on behalf of its member companies in part to bring uniformity to the programs offered by the LDCs which would enable them to benefit from a common statewide marketing program. As described in the petition, AGDF is seeking approval of this and other programs, on behalf of its members rather than having each file separate petitions. This reduces the cost and time which would be required with seven (7) separate filings. If the Staff Recommendation is approved, either AGDF or each company would have to file a petition each time it wanted to implement a specific research project which would require an unnecessary cost associated with the preparation and presentation of a filing as well as a delay in

DOCUMENT NUMBER-DATE
10030 SEP 29 8
FPSC-COMMISSION CLERK

implementation. Each project would have to be reviewed by Staff and brought to the Commission, and depending on the case load, this could be a lengthy process.

Although AGDF is seeking to receive approval of programs for each LDC, each individual LDC would still remain responsible for supporting their individual cost recovery factors through the annual filing. Each LDC would continue to develop and file the schedules and data required by the Commission, and importantly, these schedules would continue to be subject to audit by Staff and subject to review by the Commission as to the appropriateness of the project and amounts. The requirement for preapproval does not give the Commission any substantive review or control that does not currently exist; it merely adds an unnecessary step along with additional filing costs.

Although Staff recommends approval of the AGDF conservation research program, and offers very positive comments regarding the proposed research, the requirement for additional petitions and preapproval is significantly different than the Commission's requirements for electric utility research programs. The current research programs approved for electric utilities provide for an overall annual (or five-year) total spending cap for conservation research projects. The approved electric research programs also include spending caps for individual research projects. Exceeding either the total cap or individual project cap would require Commission approval. However, to our knowledge, unless the spending caps are exceeded, none of the electric projects requires prior Commission approval. The proposed AGDF gas CDD program was patterned after the research programs approved for electric utilities. We have no objection to the Commission establishing a total research spending cap and an individual project spending cap. Given that none of the electric programs require prior approval of individual projects below the project spending caps, we have not been able to reconcile why the process should be different for gas utilities.

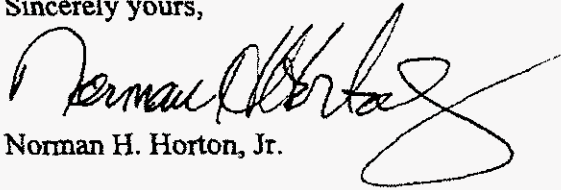
We provided examples of the types of activities to be performed under the CDD program and recognize that staff has some questions as to the appropriateness of compressed natural gas vehicle (NGV) research projects. There is no objection by either AGDF or its member LDC's to removing NGV's as an example of a project to be performed under the CDD program submitted here. Our intent is to conduct research related to load research, building technologies, appliances and equipment that are directly related to an existing or potential natural gas conservation program. AGDF and its member LDC's should have the same ability and flexibility to pursue CDD projects as the electric industry. Imposing an individual project preapproval requirement results in an unnecessary and burdensome requirement, especially since the Commission retains the ability to review and approve any cost recovery associated with any project for which AGDF members seek to recover costs through conservation.

Katherine Fleming, Esq.
September 29, 2009
Page 3

In conclusion, we do plan to attend the agenda and address these and other issues with the Commission but wanted to share with you some of the concerns we have with portions of the recommendation prior to that time so you would have an opportunity to review them. I should also point out that there are no other parties in this docket.

Thank you for your consideration and assistance.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Norman H. Horton, Jr.", with a large, stylized flourish extending to the right.

Norman H. Horton, Jr.

NHH/amb
cc: Docket File