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March 30, 2012

VIA HAND DELIVERY

Ms.Ann Cole, Commission Clerk
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

120068-GU

In re: **Petition of Florida Natural Gas Association to initiate rulemaking to revise and amend portions of Rule 25-12.045, Florida Administrative Code.**

Dear Ms. Cole:

Enclosed for filing, please find the original and 10 copies of the Florida Natural Gas Association's Petition to Initiate Rulemaking.

Thank you for your assistance in connection with this filing. If you have any questions whatsoever, please do not hesitate to let me know.

Sincerely,

Beth Keating
Gunster, Yoakley & Stewart, P.A.
215 South Monroe St., Suite 601
Tallahassee, FL 32301
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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition of Florida Natural Gas Association to initiate rulemaking to revise and amend portions of Rule 25-12.045, Florida Administrative Code.	DOCKET NO. 120068-GU DATED: March 30, 2012

PETITION TO INITIATE RULEMAKING

I. Introduction and Background

In accordance with Section 120.54(7), Florida Statutes ("F.S.") and Rules 28-103.006 and 25-22.017(2), Florida Administrative Code ("F.A.C."), the Florida Natural Gas Association ("FNGA") submits this Petition requesting that the Florida Public Service Commission ("FPSC" or "Commission") initiate rulemaking to amend Rule 25-12.045, F.A.C. ("Cut and Cap Rule" or "the Rule") to revise portions of the Rule that serve as a significant economic barrier to reinitiating gas service on lines that have been inactive for a period of time, as well as to reflect additional provisions regarding monitoring and maintenance of inactive and abandoned service lines.

In 2007, the FNGA sought a temporary waiver of portions of this rule in view of the implementation by its member Local Distribution Companies (LDCs') of marketing and other incentives to encourage customers that had discontinued natural gas service to reconnect their service. Specifically, the FNGA sought a waiver of subsections 1(b) and (c) of the Rule, referred to as the "service line abandonment" provisions, or "cut and cap" provisions, which provide, in pertinent part:

> (1) The following actions shall be taken for inactive gas service lines that have been used, but have become inactive without reuse:
>
> . . . .
>
> (b) After a service line has been inactive for a period of two years, if there is a prospect for reuse of the line, one of the following actions shall be

> taken within six months:
> 1. Disconnect the service line from all sources of gas and abandon or remove;
> 2. A valve on the service line shall be locked in the closed position and the service line plugged to prevent the flow of gas;
> 3. Remove the meter and plug the end of the service line to prevent the flow of gas.
> (c) After five years of inactivity, service lines shall be retired and physically abandoned within six months.

Recognizing the increased efforts of FNGA members to bring consumers back to natural gas, as well as the substantial (and potentially unnecessary) costs of requiring companies to remove meters and "cut and cap" thousands of lines, the Commission granted the FNGA's request for waiver through 2009.[1]

Thereafter, in December 2009, the FNGA sought an extension of the waiver for an additional two-year period. In requesting the waiver extension, the FNGA noted that, in the interim since the Commission had granted the initial waiver request, many FNGA members had instituted internal marketing programs specifically targeted at inactive service restoration. Moreover, at that time, many of the service lines that would have had to be cut and capped to attain compliance with the Rule had become inactive in the interim since the waiver had been approved. The more recently inactive lines were largely a result of the continued increase in residential vacancy rates and mortgage foreclosures during that period, as opposed to conversions to electricity. Thus, as the market rebounded, the FNGA and its member LDCs were confident that continued efforts would result in additional reconnections. The Commission granted the requested extension, noting that it was unlikely that any safety issues would result, because LDCs

[1] *See* Order No. PSC-07-0488-PAA-GU, and clarifying Order No. PSC-07-0830-GU, issued in Docket No. 070135-GU. The Orders also provided for an additional 2-year "grace period" for companies to return to full compliance with the Rule, in the event an extension was not requested.

would continue to closely monitor the service lines and would continue to comply with all other state and federal gas safety requirements.[2] In granting the waiver extension, the FPSC required that the FNGA consolidate information from each LDC and submit, after the conclusion of the extension period, a summary report describing the results of the LDCs' efforts to reactivate inactive lines, as well as a proposal for further action.[3] The Commission also included a "grace" period through the end of 2013 for FNGA's members to come into compliance in the event there was not another extension of the waiver.

This Petition is submitted, in part, to provide the FNGA's proposal for further action, as required by Order No. PSC-10-0158-PAA-GU. The required report addressing the LDCs efforts to reactivate service has been submitted previously under separate cover, but is also attached and incorporated herein as Attachment A for ease of reference. As the report reflects, FNGA members have achieved positive results by implementing marketing programs for eligible customers with inactive service lines who would have otherwise not had the opportunity to reinitiate natural gas service without the moratorium in effect. Without changes to Rule 25-12.045, F.A.C., maintaining these positive achievements would be, unfortunately, offset by the costs of cutting and capping lines through which service could otherwise still be re-initiated at a reasonable cost.

While the cumulative costs associated with cutting and capping lines have certainly been reduced over the past four years by the number of service lines through which the LDCs have successfully reinitiated service, there are still a number of service

[2] Order No. PSC-10-0158-PAA-GU, issued in Docket No. 090522-GU (*In re: Petition for extension of waiver of service line abandonment provisions of Rule 15-12.045, F.A.C., by the Florida Natural Gas Association*), at p. 3.
[3] *Id.*, p. 3-4.

lines through which service has not yet been reinitiated, as well as additional lines through which service was suspended during the period. Anecdotal information obtained by the Companies on these newer disconnections indicates that they can be largely attributed to the delayed economic recovery and accompanying prolonged period of high unemployment rates. Although the declining price of gas, coupled with the FNGA members' concerted efforts to encourage reactivation of natural gas service, has produced significant gains in reactivation of service on many lines, the total number of inactive service lines reflects a somewhat tempered decrease as a result of more recent disconnections of service. However, as the economy continues to improve,[4] FNGA's members have every expectation that additional lines will be reconnected for natural gas service.

In light of the LDCs' experiences over the past four years, FNGA now proposes that Rule 25-12.045, F.A.C., be amended consistent with the relevant federal safety provisions, including those specific to abandoned or inactive lines. The so-called "Cut and Cap" provisions in the current Commission rule have proven to be a significant economic and competitive barrier to restoring service to inactive service lines, while providing no cognizable safety protection beyond that already provided by the federal safety provisions of 49 Code of Federal Regulations ("C.F.R.") 192.727 with which the FNGA's member LDCs also comply. Moreover, the "Cut and Cap" provisions are inconsistent with operators' written integrity management plans required by 47 C.F.R. 192.1007 ("DIMP Rule").

In addition, FNGA proposes that the revised rule incorporate additional

[4] The Florida Department of Economic Opportunity's report released March 13 indicates a trending decline in Florida's unemployment rate.

provisions addressing:

- Monitoring and repair requirements for inactive lines;
- Abandonment of unrecorded inactive lines and lines with no prospect for reuse;
- Point of abandonment for inactive lines near demolition or excavation sites; and
- Clarification of the requirement to retire abandoned facilities.

In making this request, FNGA also asks that the "grace period" provisions of Order No. PSC-10-0158-PAA-GU be tolled pending disposition of this Petition such that FNGA's members will not be required work towards compliance with the Rule while this request is pending. In support of this Petition, the FNGA states:

1. The name, address, telephone number and fax number of the Petitioner are:

Florida Natural Gas Association
G. David Rogers, Executive Director
P.O. Box 11026
Tallahassee, FL 32302
Tel 850-681-0496
Fax 850-222-7892

per Beth Keating 4/24/12

2. The contact information for the person to whom notices, orders and correspondence regarding this Petition are to be sent is:

Beth Keating
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3. The FNGA is a natural gas trade association representing investor-owned, special gas district, and municipal LDCs, as well as gas transmission companies, gas marketing companies, and others affiliated with the natural gas industry in Florida. All of Florida's six (6) investor-owned gas distributors are FNGA members, as are 29 of the 31 special district and municipal distribution systems. Each of FNGA's LDC members is subject to the regulatory jurisdiction of the FPSC for gas safety, as prescribed by Chapter 368, Part 1, F.S., including Rule 25-12.045, F.A.C. The substantial interests of the LDC members of the FNGA are thus directly affected by Rule 25-12.045, F.A.C., and will likewise be affected by the Commission's disposition of this Petition in that the LDCs' ability to defer the removal of meters and services lines (as well as the associated costs) will thereby be determined.

4. Rule 25-12.045, F.A.C., applies directly to FNGA's LDC members, and the FNGA meets the definition of "person" in Section 120.54(7), F.S., and defined in Section 120.52(13), F.S.. The FNGA submits this Petition on behalf of its member LDCs, who would otherwise have standing to Petition the Commission in their own right. Furthermore, the relief requested herein does not require the participation of the individual members of the FNGA, and is consistent with and germane to the FNGA's organizational purpose. See Hunt v. Washington State Apple Adver. Comm'n, 432 U.S. 333 (1977)(setting forth a three prong test for associational standing).

5. The Commission is vested with jurisdiction in this matter in accordance with Section 368.05, F.S., pursuant to which the Commission has authority to implement and enforce rules and orders consistent with its safety authority under Part I of Chapter 368. As set forth in Section 368.03, F.S., such rules and regulations implemented by

the Commission pursuant to its safety authority shall be ". . . adequate for safety under conditions normally encountered in the gas industry, but requirements for abnormal or unusual conditions or all details of engineering and construction need not be specifically provided for or prescribed."

6. Therefore, the FNGA asks that the Commission initiate rulemaking to amend Rule 25-12.045, F.A.C., as set forth in Attachment B and described herein.

II. Proposed Rule Changes

7. Key to the FNGA's request is the fact that FNGA members are also subject to the U.S. Department of Transportation's Pipeline and Hazardous Materials Safety Administration (PHMSA) Rule 49 C.F.R. 192.727, which addresses the steps to be taken by companies to address abandoned and inactive service lines, as well as the requirement to implement and adhere to an integrity management plan, as set forth in 47 C.F.R. 192.1007.[5] As such, FNGA's proposed changes to the FPSC's rule do not eliminate or diminish safety oversight in this area.

8. The rule changes that FNGA now proposes herein not only provide greater flexibility for continued efforts of FNGA members to reconnect service, but also avoid conflict with LDCs' integrity management plans. These changes will enable LDCs to continue to focus their efforts on reactivating service without having to conduct "cut and cap" activities at the same time. In fact, cutting and capping a line impairs efforts to reestablish natural gas service due to the additional costs associated with reinstituting service on a line that has been capped in accordance with the Commission's Rule. Often, the added cost makes reconnection of natural gas service cost prohibitive for a customer.

[5] *See* Rule 25-12.005, F.A.C., adopting 49 C.F.R., Chapters 191 and 192 for purposes of Florida.

9. Moreover, as mentioned above, the rule changes FNGA proposes eliminate inconsistency and inherent conflict between the existing "Cut and Cap" rule and the LDCs' distribution integrity management plans ("DIMP") required by 47 C.F.R. 192.1007. Specifically, the DIMP Rule requires that LDCs' integrity management plans must: (1) identify threats to the distribution pipeline; (2) evaluate and rank risk based on data including incident and leak history, as well as continuing surveillance reports and excavation damage experience; and (3) identify and implement measures to address risks. Consistent with the LDCs' DIMPs, those risks/threats ranked highest by an LDC; i.e. those most critical, are scheduled to be remediated first. Under the current "Cut and Cap" rule, however, LDCs' would be required to focus attention on addressing inactive service lines regardless of their risk ranking in the LDCs' DIMP. The changes to the "Cut and Cap" rule that FNGA proposes herein ensure that appropriate safety procedures are followed. Moreover, these changes also enable activity relative to inactive service lines to take place consistent with LDCs' assessments under their DIMPs, thus allowing priority to continue to be placed on the highest risk areas.

10. Addressing this concern, the FNGA proposes that subsection (1) of Rule 25-12.045, F.A.C., be amended to reflect that service on lines that have been inactive for an extended period of time be safeguarded consistent with the requirements of 49 C.F.R. §192.727. This change ensures that inactive service lines will be carefully monitored and service lines will be appropriately disconnected when a service line is truly abandoned with no opportunity for reconnection. This change protects public safety, while also providing greater flexibility with regard to timing of the procedures and the actions to be taken.

11. FNGA also proposes that subsection (2) be amended to delete the first sentence, which is no longer necessary in view of the changes to subsection (1) discussed above. This change is reflected in new subsection (6) of FNGA's proposed revised Rule. FNGA would propose a further revision to this subsection to insert the phrase "the service line is to be physically disconnected from the gas supply and" after the first word "Where," which simply clarifies under what circumstances the provision applies.

12. Under FNGA's proposal, current subsection (3) of the Rule would remain unchanged, but be renumbered as subsection (7) in the proposed amended Rule.

13. FNGA further proposes the addition of three new subsections to the Rule. New subsection (2) would mandate that inactive lines be surveyed and repaired consistent with the rules applicable to active service lines. New subsection (3) would implement an additional abandonment requirement for unrecorded inactive service lines discovered during surveys or inspections. New subsection (4) would specify appropriate disconnection and abandonment when demolition or excavation at a service location is planned.

III. FPSC Has Authority to Implement Requested Changes

14. Federal law provides the framework for pipeline safety. Specifically, the first statute regulating pipeline safety was the Natural Gas Pipeline Safety Act of 1968, subsequently amended in 1976. Liquid pipelines were added by the Pipeline Safety Act of 1979. Later legislation included the Pipeline Safety Reauthorization Act of 1988, the Pipeline Safety Act of 1992, the Accountable Pipeline Safety and Partnership Act of 1996, followed by the Pipeline Safety Improvement Act of 2002. Most recently, the

"Pipeline Safety, Regulatory Certainty, and Job Creation Act of 2011," H. Con. Res. 93, passed out of Congress on December 15, 2011, and was signed into law on January 3, 2012. The pertinent provisions are located at Title 49, U.S. Code, Subtitle VIII, Chapter 601, Sections 60101, et seq.

15. Consistent with federal law, the nation's pipeline safety programs are administered by the U.S. Department of Transportation's Pipeline and Hazardous Materials Safety Administration (PHMSA). Under the Pipeline Safety Act, States must receive certification from PHMSA to assume pipeline safety responsibilities in their states. Through this process, PHMSA and a State agree that the State will take on the primary responsibility for safety of intrastate facilities. The State commits to ensuring pipeline and natural gas facilities in the State meet the federal minimum pipeline safety standards.[6] Under existing law, States opt into this relationship with PHMSA. If a State decides not to participate, PHMSA does the safety inspection on its own. Florida is an "opt in" state, and thus, has taken primary responsibility for natural gas safety. Florida is certified through PHMSA as responsible for natural gas pipeline safety and inspections.

16. The existing Federal pipeline safety regulations are set forth in the Code of Federal Regulations, 49 C.F.R. Parts 190-199. These regulations address (1) safe design, construction, inspection, testing, operation, and maintenance of pipeline facilities, as well as siting, construction, operation, and maintenance of LNG facilities; (2) administration of the pipeline safety program; as well as (3) requirements for onshore oil pipeline response plans. All states must adopt the federal regulations, but are also allowed to issue more stringent regulations for intrastate pipeline operators

[6] *Id.*, at §60105.

under state law. [7]

17. The FPSC has separate state law authority to address the safety of natural gas facilities. The Gas Safety Law of 1967, codified at Part 1 of Chapter 368, F.S., authorizes the Commission to promulgate ". . . rules and regulations covering the design, fabrication, installation, inspection, testing and safety standards for installation, operation and maintenance. . ." of natural gas facilities in the State. Pursuant to this authority, the Commission has adopted the federal standards, as well as additional gas safety rules, which are set forth at Chapter 25-12, F.A.C.[8]

18. The rule changes requested herein are consistent with the intent and purpose of Florida law in that the requested changes will continue to appropriately address safety under conditions normally encountered in the gas industry.[9] Likewise, the changes proposed will not produce a rule that is inconsistent with, or less restrictive than, the current federal rule.[10] To be clear, LDCs in Florida will continue to be subject to 49 C.F.R. §192.727.

19. Moreover, the proposed changes will not increase regulatory costs.[11] To the contrary, it is anticipated that many service lines will be reconnected for service – thus avoiding the substantial costs that would be incurred in order for LDCs to return to

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[7] *Id.* at §60104(c).

[8] In fact, only three (3) other states have adopted, overall, more requirements that supplement and exceed the federal standards than has Florida, those states being Maine, Michigan, and Missouri. *See* Compendium of State Pipeline Safety Requirements & Initiatives Providing Increased Public Safety Levels compared to Code of Federal Regulations, report by the National Association of Pipeline Safety Representatives to the National Association of Regulatory Utility Commissioners (September 30, 2011) - http://www.naruc.org/Publications/Compendium%20FINAL%20NAPSR%20Oct%2028%202011%20First%20EditionR%20.pdf

[9] *See* Section 368.03, Florida Statutes.

[10] *See* 49 C.F.R. 192.727.

[11] *Cf.* Section 120.541(1)(b), F.S., (providing that a statement of regulatory costs is required for rules that will increase regulatory costs by more than $200,000 in the first year).

full compliance with the current provisions of Rule 25-12.045(1)(b) and (c), F.A.C.[12] This is likewise consistent with the philosophy set forth in Executive Order No. 11-72, issued by Governor Scott in April 2011, wherein he directed the Florida Executive agencies to review regulations under their purview, to determine whether such rules " . . . remain justified and necessary, and to determine whether such existing rules and regulations are duplicative or unnecessarily burdensome. . . ." Order at p. 6.

20. While costs vary somewhat from LDC to LDC, the costs associated with reinstating service on a line that has been disconnected and capped in accordance with the current rule is within the range associated with running a new service line to serve a customer.

IV. Maintenance of Safety

21. For the four-year period during which the waiver of Rule 25-12.045(1)(b) and (c) was in effect, the LDCs closely tracked safety incidents to determine whether any increases occurred that could be tied to the temporary waiver of the Rule. As set forth in Attachment C, which is obtained from the (PHMSA) website, Florida LDCs experienced very few safety incidents of any kind from 2002 – 2011. The report reflects that Florida experienced only 7 incidents attributable to the category of Excavation Damage, which is an area where one might expect to see incidents related to inactive or

[12] *Cf.* Section 120.745(2)(g), F.S., which addresses the biennial review of agency rules by the Legislature, and requires inclusion of economic analysis of any rule implemented prior to November 2010, which is anticipated to have the economic impact set forth in Section 120.541(2)(a), F.S., as follows:

> 1. Is likely to have an adverse impact on economic growth, private sector job creation or employment, or private sector investment in excess of $1 million in the aggregate within 5 years after the implementation of the rule;
> 2. Is likely to have an adverse impact on business competitiveness, including the ability of persons doing business in the state to compete with persons doing business in other states or domestic markets, productivity, or innovation in excess of $1 million in the aggregate within 5 years after the implementation of the rule; or
> 3. Is likely to increase regulatory costs, including any transactional costs, in excess of $1 million in the aggregate within 5 years after the implementation of the rule.)

abandoned pipe. By comparison, Georgia experienced more safety incidents related to natural gas, which can be tied to the fact that Georgia has substantially more miles of natural gas pipeline. Notably, however, the percentage of total such incidents tied to damage caused by third party excavations was lower in Georgia than in Florida.[13] This is noteworthy, because Georgia does not have a State rule that supplements or includes additional requirements for inactive or abandoned facilities beyond the requirements of 49 C.F.R. §192.727. Thus, the data indicate that reliance upon the federal provision would not produce additional safety incidents related to inactive pipeline facilities.

22. Consistent with this analysis, FNGA's member-compiled data (Attachment A) from FNGA's Florida LDC's reflect that safety has not been compromised during the four-year waiver period. To the contrary, the data reflect that the majority of service calls and leaks have been associated with active service lines or lines that have been inactive for less than five years. To date, FNGA has found no data (state or national) indicating that inactive lines are a significant contributing factor to safety incidents.

23. Customer safety is of the utmost concern for FNGA's members. Likewise, the LDCs fully understand that, in view of recent events, there is understandable trepidation regarding natural gas safety at both at the federal and state levels of government. Florida LDCs have responded aggressively to these concerns by focusing their efforts on safety initiatives in a number of areas, including facility integrity initiatives and ongoing efforts to ensure that facility mapping is digitized and/or otherwise fully accessible through GIS mapping systems.

24. Inactive service lines have not, however, generated safety concerns, or

[13] *See* Exhibit C.

incidents, for Florida LDCs.[14] At the same time, the data reflect that LDCs were successful in reactivating service on 29,022 lines over the past two years alone. This clearly indicates that aggressive marketing efforts have been successful. Requiring the LDCs to commence the cut and cap process for purposes of compliance with Rule 25-12.045, F.A.C., would derail continued efforts to encourage reconnection of natural gas services and require the LDCs to physically sever service on lines through which service might otherwise be reinstituted.[15]

25. In addition, to the extent any concerns regarding abandoned and inactive lines may be associated with the potential for excavation damage, it is worth noting that the implementation of the "One Call" system has proven successful at addressing concerns regarding damage from excavation work by third parties. Specifically, in 1993, the Florida Legislature enacted Chapter 556, known as the Underground Facility Damage Prevention and Safety Act (UFDPSA). As set forth in Section 556.101(2), F.S., the purpose of the law is to ensure:

> . . . access for excavating contractors and the public to provide notification to the system of their intent to engage in excavation or demolition. This notification system shall provide the member operators an opportunity to identify and locate their underground facilities. Under this notification system, Sunshine State One-Call of Florida, Inc., is not required or perrnitted to locate or mark underground facilities.

Likewise, the purpose of the system itself is primarily to:

> (a) Aid the public by preventing injury to persons or property and the interruption of services resulting from damage to an underground facility

[14] With regard to inactive residential service lines, such lines typically do not contain sufficient remnant gas to create a hazard even if the line were to be inadvertently struck or damaged.

[15] To be clear, FNGA's member LDCs have every intention to maintain compliance with the federal rule, in which case, if there is no prospect that service can or will be reinitiated on a line, then the line will be appropriately severed, capped, and flushed in accordance with the federal rules.

caused by excavation or demolition operations.[16]

This Act created Sunshine State One-Call of Florida ("One Call"), which consists of operators of underground facilities in Florida, and required the corporation to establish a one-call toll-free telephone notification system (Dial 811). All Florida LDCs are required to participate in accordance with Section 556.103(1), F.S. Moreover, it is worth noting that One Call was implemented after Rule 25-12.045, F.A.C.; thus, to the extent the potential for excavation damage is (or was) a factor in the development of the Cut and Cap provisions, the subsequent enactment and implementation of One-Call has provided a better, more precise, means of addressing concerns about excavation damage. But, again, FNGA wishes to ernphasize that, to the extent LDCs have seen issues arise with regard to third party excavations, as previously noted herein, the majority of those incidents have been tied to active service lines and quite often involve situations in which a contractor has failed to comply with the One-Call provisions.

V. Relief Requested

26. Based on the foregoing, the FNGA respectfully requests that the Commission initiate rulemaking proceedings to consider adoption of FNGA's proposed amendments to Rule 25-12.045, F.A.C., as reflected in Attachment B to this Petition, and begin the rule workshop process, as may be necessary and appropriate, to ensure a complete airing of the impacts of the proposed rule changes.

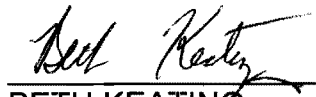
27. Pending the disposition by the Commission of this Petition for Rulemaking, the FNGA further requests that the Commission toll the "grace period" provisions of Order No. PSC-10-0158-PAA-GU, pursuant to which LDCs are required to bring their

[16] Section 556.101(3), F.S.

inactive service lines into compliance with the current rule by year's end 2013. Maintaining the status quo pending resolution of FNGA's Petition will prevent LDCs from being required to work towards compliance with the Rule while the Petition is pending before the Commission, and as such, avoid incurrence of costs that may prove to be unnecessary.

28. The FNGA further requests that, should this request for rulemaking be denied, FNGA's LDCs be allowed a four-year "grace period" to come into compliance with the Rule. The four-year period will allow LDCs to lessen the degree of the anticipated spike in maintenance costs that will occur if LDCs are required to come into strict compliance with the Rule as it currently stands. Because the anticipated costs are substantial, the ability to spread those costs over the longer period will better enable LDCs to account for these costs without unintended detrimental impacts on the Companies or their customers. Likewise, the extended "grace period" will enable the LDCs to come into compliance without jeopardizing adherence to their DIMP. Moreover, as the LDCs have found over the past four years, continued monitoring of inactive lines will ensure that there will be no negative customer impacts.

Respectfully submitted this 30th day of March, 2012,



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Attorneys for Florida Natural Gas Association

Petition to Initiate Rulemaking
by the
Florida Natural Gas Association

Attachment A

Post-Waiver Period Report of FNGA

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for extension of waiver of service line abandonment provisions of Rule 25-12.045, F.A.C., by Florida Natural Gas Association.	DOCKET NO. 090522-GU DATED: March 30, 2012

Final Report

The following summarizes the collection of data from calendar years 2010 and 2011 in accordance with Order No. PSC-10-0158-PAA-GU granting the Florida Natural Gas Association members waivers to parts of Rule 25-12.045 on March 22, 2010.

Ten natural gas utility companies, including the two largest LDCs Peoples Gas System and Florida City Gas, provided data on an average of 659,101 service lines in 2010. Companies collected information on reported leaks or actual leaks found to have occurred on these service lines depending on the utilities customer information systems (CIS) or operational records. This data could have been derived from call center records or actual leak records retained by the individual utility.

Of the 663,286 total services reported, 585,260 were recorded as active and 73,842 as inactive. There were a total of 3,562 leaks recorded, 3,149 on active lines and 413 on inactive lines. Leak calls or reported leaks - as a percentage of the total - were about 0 .5% for active lines and 0.6% for inactive lines. There were seven times as many leaks on active lines as there were on inactive lines.

In 2010, 57,057 of the lines had been inactive for less than 60 months while 11,478 had been inactive for more than 60 months and 5,307 were undetermined. Of these inactive lines, 307 of the lines that were inactive less than 60 months had a leak record associated with it, while 77 leak records were connected to lines inactive greater than 60 months. There were 29 service lines which could not be accurately determined. Leak calls as a percentage of the total were 0.5% for those inactive less than 60 months and 0.7% for those inactive greater than 60 months.

The same respondents provided data in 2011 on an average annual total of 671,955 service lines. Of these, 587,854 were reported as active while 84,101 were inactive. There were 2,747 leaks recorded, 2,426 on active lines and 321 on inactive lines. Leak calls or reported leaks as a percentage of the total represented 0.4% for active and 0.4% for inactive, but, again, there were 10 times as many reported leaks on active lines as there were inactive.

In 2011, 59,035 lines had been inactive for less than 60 months, while 14,348 had been inactive for more than 60 months. There were 10,718 service lines that could not be determined. Of these

inactive lines, those inactive less than 60 months, 214 of them had a leak record. As for lines inactive greater than 60 months, there were 63 that have leak records associated with them. Again, there were 44 lines that could not be accurately defined. In all three cases, leak calls as a percentage of the total were 0.4%.

For the two year period, 29,022 service lines were recorded as reactivated by LDCs. Slightly more than half, or 15,504, had been listed as inactive for less than 18 months. There were 11,452 service lines that had been inactive more than 18 months but less than 60 months that were reactivated and 1,960 were over 60 months inactive when they were reactivated. A total of 106 were not defined.

Companies during this moratorium period have promoted a variety of marketing programs directed towards reconnection incentives to gain back lost customers. In many cases, however, the continued slump in the economy and home sales continues to be a factor with inactive accounts.

Over the two year period, the percentage of leak calls or actual leaks reported remained essentially the same for both active and inactive lines and there appears to be no indication that because a line has been inactive for a given period of time that there exists a higher probability that a leak will occur. Utility companies are required by both federal and state regulations to maintain inactive service lines in the same manner and with the same inspection and operating requirements as active lines.

As for the question of costs associated with the abandonment and the reactivation costs of inactive lines, the many variables tied to the abandonment costs (such as urban or rural location, paved or unpaved surfaces, road crossings, permit and traffic control expenses and other factors) make it somewhat difficult to establish an average cost for this activity; however, from polling the member LDCs, we have learned that abandonment costs can vary widely between the companies, with variations as little $100 to more than several thousand dollars. In the case of reactivating an inactive line, the expense can be significantly less because no excavation is required. In most cases, all that is required of the company is to verify that the customer fuel lines are properly inspected, then to ensure that the meter is reconnected, and finally, to initiate a turn on in accordance with the company's procedures.

2010-2011 Cut & Cap Moratorium Summary

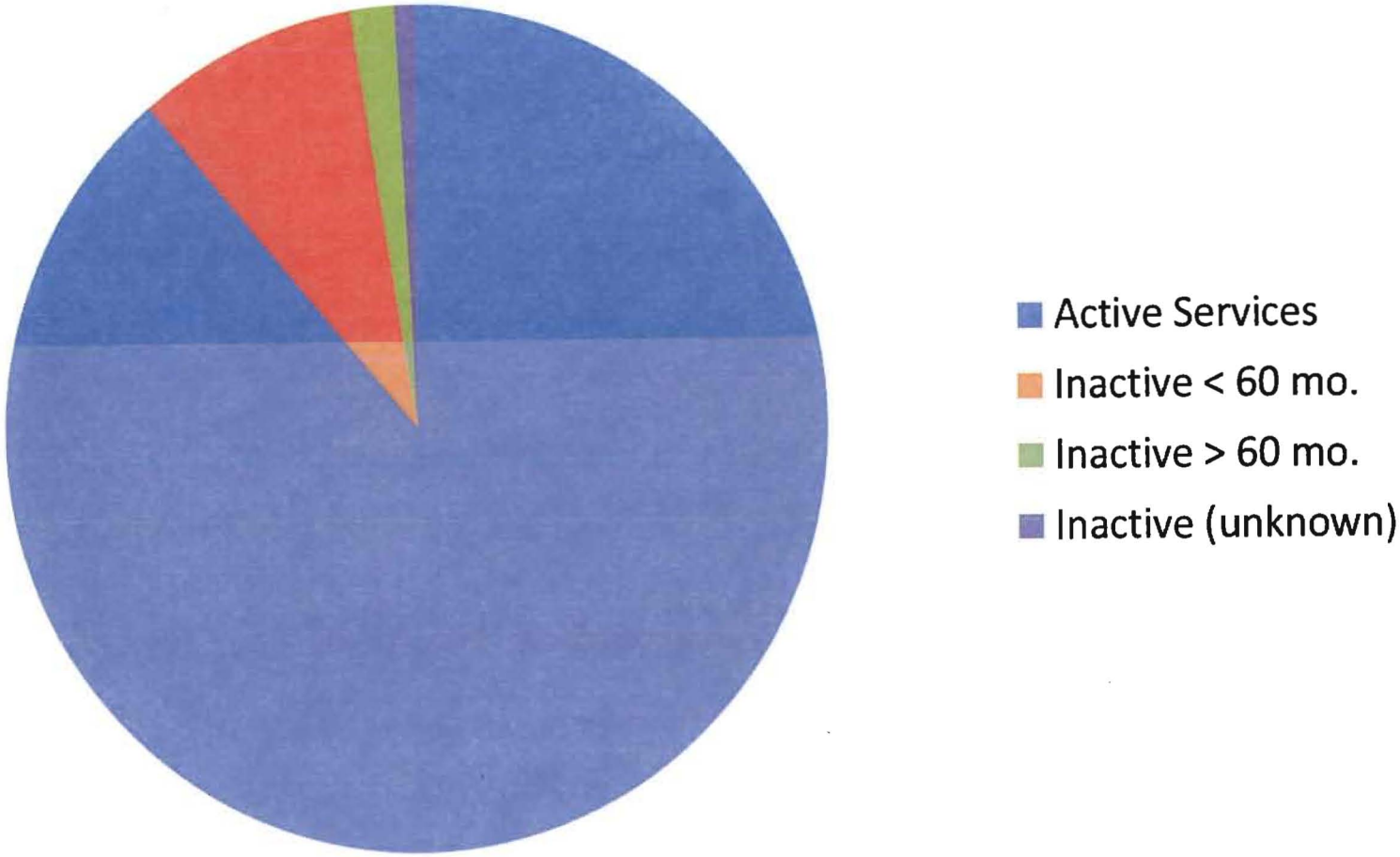
Companies Responding

- AGL/Florida City Gas
- FPU/CFG
- Live Oak
- Okaloosa Gas
- Reedy Creek
- City of Sunrise
- City of Tallahassee
- Energy Services of Pensacola
- Clearwater Gas System
- TECO

2010 Data Summary

- Total Service Lines 659,101 (12mo. Avg.)
- Total Active Services 585,260 (12mo. Avg.)
- Total Inactive Services 73,842 12.62%
  - 18 to 60 months 57,057
  - > 60 months 11,478
  - undefined 5,307

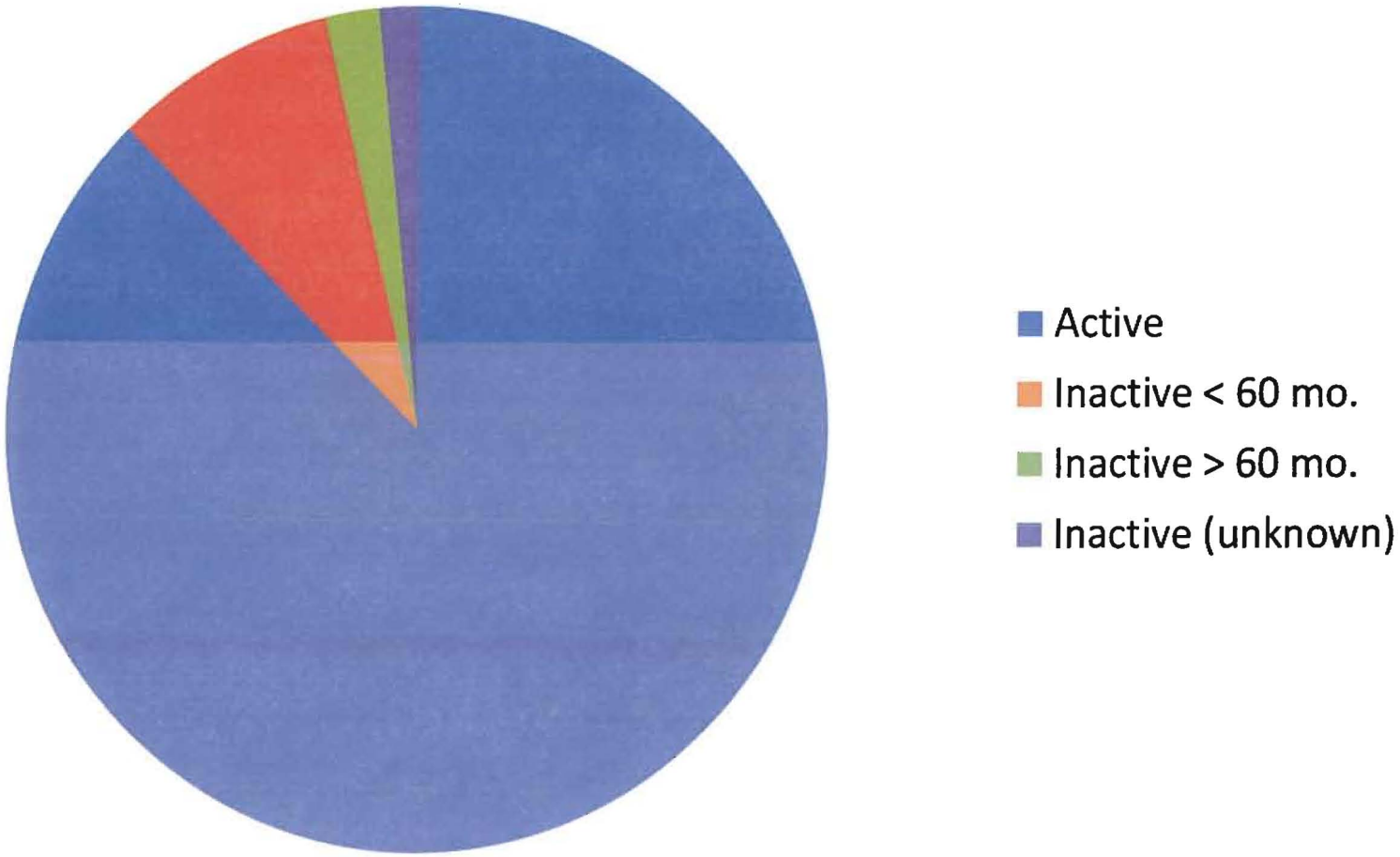
2010 Service Lines



2011 Data Summary

- Total Service Lines 671,954 (12mo. Avg.)
- Total Active Services 587,854 (12mo. Avg.)
- Total Inactive Services 84,101 12.52%
  - 18 to 60 months 59,035
  - > 60 months 14,348
  - undefined 10,718

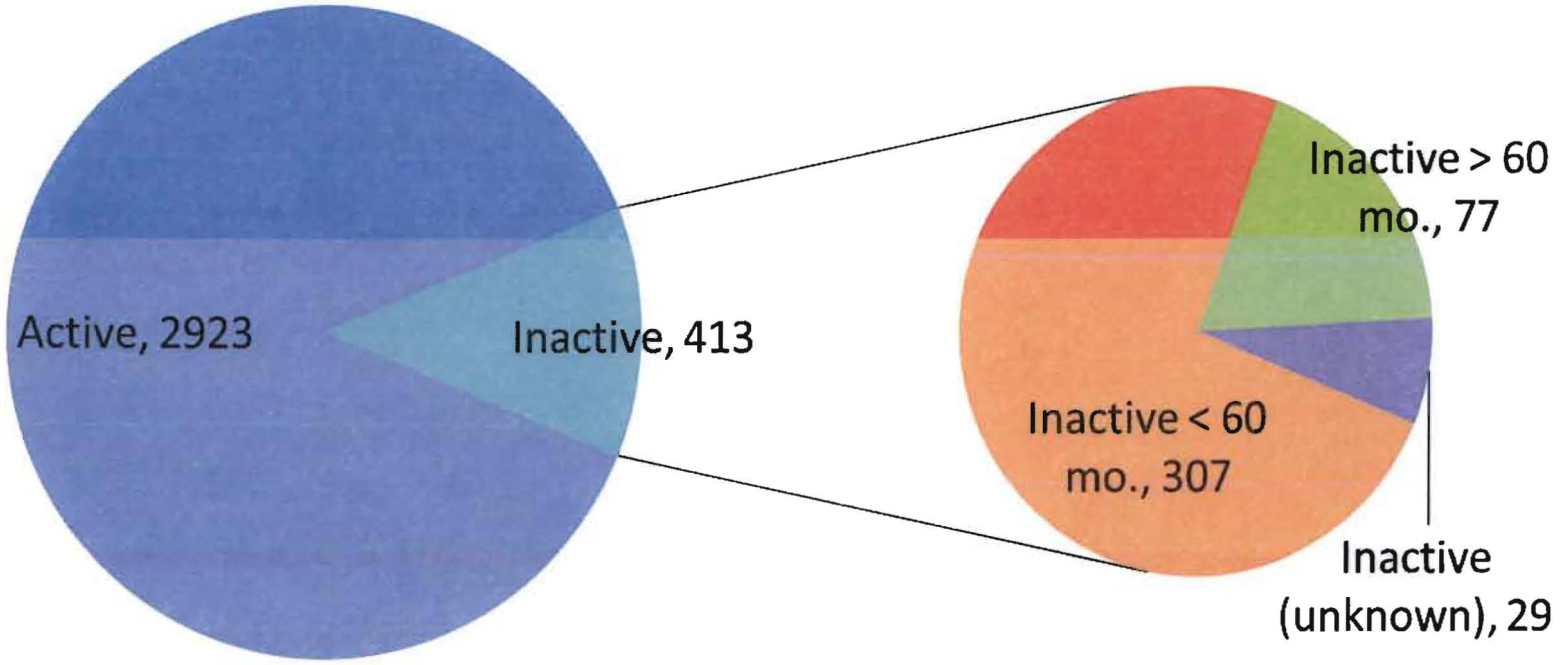
2011 Service Lines



2010 Leak Calls/Reported Leaks

• Total All Services	659,102	3,336	.506%
• Active Services	585,260	2,923	.499%
• Total Inactive	73,842	413	.559%
– < 60 mo.	57,057	307	.538%
– > 60 mo.	11,478	77	.671%
– undefined	5,307	29	.546%

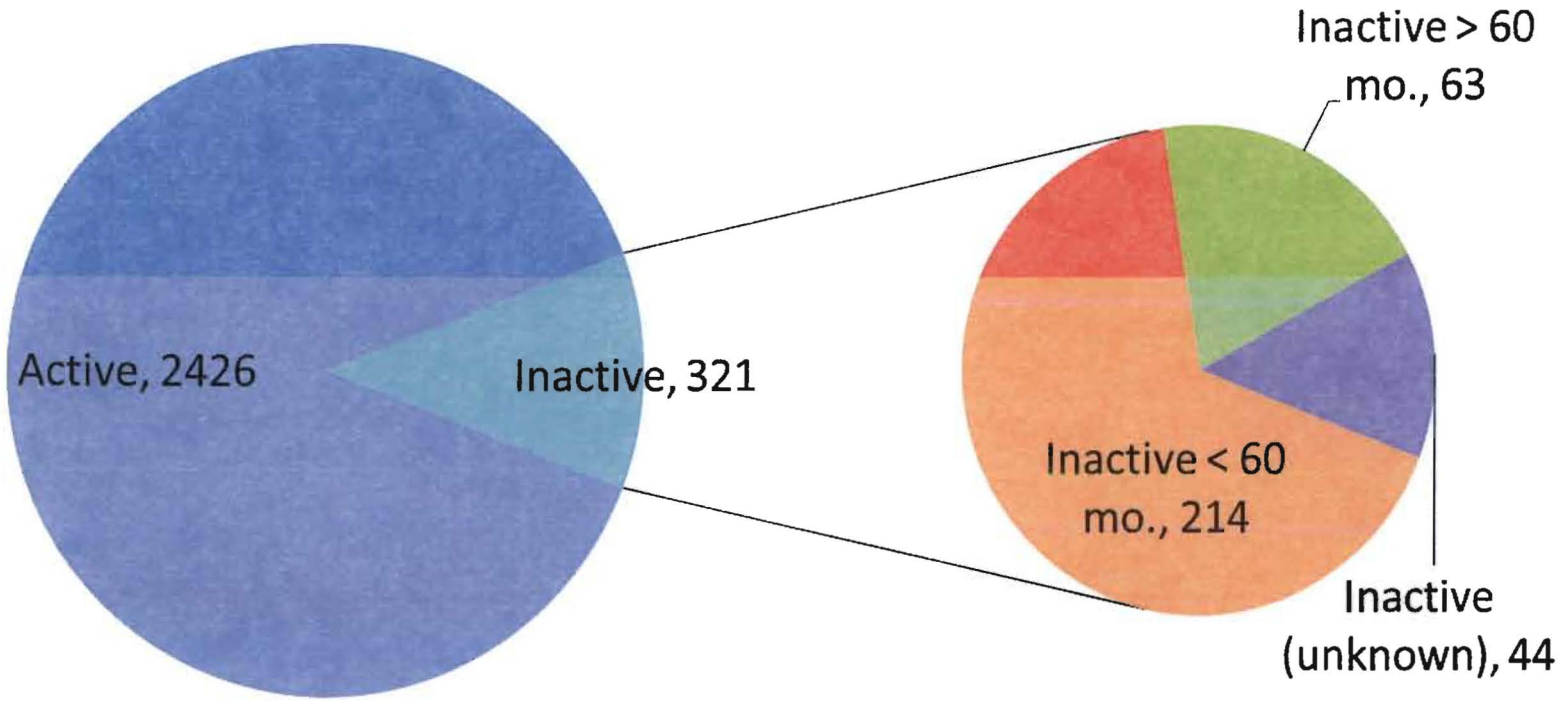
2010 Leak Calls/Reported Leaks



2011 Leak Calls/Reported Leaks

• Total all Services	671,955	2,747	.409%
• Active Services	587,854	2,426	.413%
• Total Inactive	84,101	321	.382%
– < 60 mo.	59,035	214	.362%
– > 60 mo.	14,348	63	.439%
– undefined	10,718	44	.411%

2011 Leak Calls/ReportedLeaks



Active/Inactive Leak Call Comparison

• 2010 Active services	2,923	.499%
• 2010 Inactive services	413	.559%
• 2011 Active services	2,426	.413%
• 2011 Inactive services	321	.382%
• Combined Active	5,349	.456%
• Combined Inactive	734	.465%

2010-2011 Reactivations

- Total Reactivations Reported 29,022
  - Inactive < 18 mo. 15,504
  - Inactive >18 mo.< 60 mo. 11,452
  - Inactive > 60 mo. 1,960
  - Not defined 106

2010 CUT 'N CAP - Monthly Moratorium Report

Company: MASTER Report
Date: Janurary 30, 2012
Sumitted by :
Contact email:
Contact Phone #:

Total Service Lines	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Average
ACTIVE Service Lines	582,895	585,085	585,876	585,299	584,457	583,599	583,504	583,988	583,845	585,629	587,884	591,056	585,260
Inactive (under 60 months)	59,262	58,174	58,017	59,051	60,094	60,957	61,745	76,102	62,041	61,463	59,937	58,049	61,241
Inactive (60 & over months)	9,827	10,044	10,372	10,775	11,131	11,474	11,717	11,991	12,290	12,495	12,720	12,901	11,478
Inactive (unknown)	5,476	5,477	5,476	5,754	5,753	5,753	5,777	5,776	5,778	4,220	4,221	4,219	5,307
Total Service Lines	657,460	658,780	659,741	660,879	661,435	661,783	662,743	677,857	663,954	663,807	664,762	666,225	663,286

Leak Call, Service Lines	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Total	Percent
ACTIVE Service Lines	245	233	249	213	224	230	239	274	297	291	424	230	3,149	0.538%
Inactive (under 60 months)	26	22	36	29	29	18	19	29	17	36	26	20	307	0.538%
Inactive (60 & over months)	5	5	9	3	7	8	6	8	9	10	6	1	77	0.671%
Inactive (unknown)	1	0	0	2	2	3	2	3	3	4	4	5	29	0.546%
Total Service Leak Calls	277	260	294	247	262	259	266	314	326	341	460	256	3,562	0.537%

Reactivations	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Total
Inactive (under 18 months)	723	741	750	685	674	958	733	754	612	743	900	979	9,252
Inactive (18 to 59 months)	499	477	458	352	323	594	364	365	331	387	487	676	5,313
Inactive (over 59 months)	83	95	59	47	43	49	47	59	52	56	83	103	776
Inactive (unknown)	2	2	18	1	-	4	1	2	2	1	1	1	35
Total Reactivates	1,307	1,315	1,285	1,085	1,040	1,605	1,145	1,180	997	1,187	1,471	1,759	15,376

2011 CUT 'N CAP - Monthly Moratorium Report

Company: MASTER Report
Date: January 30, 2012
Sumitted by :
Contact email:
Contact Phone #:

Total Service Lines	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Average
ACTIVE Service Lines	586,410	587,735	588,190	587,112	586,825	586,426	586,228	586,652	586,884	588,951	590,705	592,128	587,854
Inactive (under 60 months)	57,735	56,889	57,523	68,407	58,844	59,325	59,806	59,627	59,306	58,198	56,897	55,862	59,035
Inactive (60 & over months)	13,083	13,318	13,565	13,886	14,184	14,394	14,597	14,720	14,925	15,040	15,178	15,287	14,348
Inactive (unknown)	10,464	10,464	10,464	10,897	10,897	10,897	10,938	10,938	10,938	10,571	10,571	10,571	10,718
Total Service Lines	667,692	668,406	669,742	680,302	670,750	671,042	671,569	671,937	672,053	672,760	673,351	673,848	671,954

Leak Call, Service Lines	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Total	Percent
ACTIVE Service Lines	194	162	208	202	245	240	206	195	212	219	183	160	2,426	0.413%
Inactive (under 60 months)	28	13	27	19	11	9	15	21	20	16	13	22	214	0.362%
Inactive (60 & over months)	6	3	7	5	4	6	8	8	5	4	3	4	63	0.439%
Inactive (unknown)	3	3	5	8	4	2	4	5	4	3	2	1	44	0.411%
Total Service Leak Calls	231	181	247	234	264	257	233	229	241	242	201	187	2,747	0.409%

Reactivations	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Total
Inactive (under 18 months)	519	479	540	432	483	547	494	571	458	603	569	557	6,252
Inactive (18 to 59 months)	492	467	548	416	455	450	479	493	460	580	637	662	6,139
Inactive (over 59 months)	79	94	112	74	95	117	80	94	93	106	122	118	1,184
Inactive (unknown)	5	4	22	2	2	6	3	3	14	2	2	6	71
Total Reactivates	1,095	1,044	1,222	924	1,035	1,120	1,056	1,161	1,025	1,291	1,330	1,343	13,646

Petition to Initiate Rulemaking
by the
Florida Natural Gas Association

Attachment B

Proposed Rule Revisions
(clean and legislative versions)

25-12.045 Inactive Gas Service Lines.

(1) One of the following actions shall be taken with regard to customer service lines that are inactive for a period of two years, unless there is a prospect for reuse of the line within the subsequent twelve-month period. Within twelve months, the operator must:

(a) Provide the valve that is closed to prevent the flow of gas to the customer with a locking device or other means designed to prevent the opening of the valve by persons other than those authorized by the operator;

(b) Install a mechanical device or fitting that will prevent the flow of gas in the service line or in the meter assembly; or

(c) Disconnect the customer's piping from the gas supply and seal the open pipe ends.

(2) Inactive service line shall be monitored and maintained in accordance with all survey and repair requirements applicable to active customer service lines.

(3) Unrecorded inactive service lines discovered in the course of leakage surveillance, construction, maintenance or inspection of facilities shall be abandoned as soon as practicable but not more than 120 days after discovery, unless abandonment is otherwise required consistent with subsection (4) of this Rule.

(4) If a building is to be demolished or if there will be a major excavation of property on which there is an active or inactive service line, and if there is no reasonable prospect of future use, the service line shall be abandoned at the main. If there is a reasonable prospect of future use, the service line may be abandoned at the curb or property line and its status shall be reviewed annually, at periods not exceeding 15 months. The service line shall be disconnected either at the main or property line prior to demolition or excavation.

(5) If there is no prospect for reuse, the service line shall be physically abandoned and disconnected from all sources of gas. Companies subject to Chapter 25-7, Florida Administrative Code, shall retire any physically abandoned facilities.

(6) Where the service line is to be physically disconnected from the gas supply and the appropriate governmental authority prohibits cutting pavement, the service line shall be disconnected at the nearest point to the main not under a paved surface. The stub of the service line, the short section of the remaining service line to the main, shall be disconnected closer to the main or at the main, if at some later date it becomes accessible.

(7) Records must be kept of the size, material, and location of all remaining service line stubs. These records must be readily available to personnel assigned to pipeline locating activities.

Specific Authority 368.05(2), 366.06 FS. Law Implemented 368.05(2) FS. History–New 9-21-74, Repromulgated 10-7-75, Amended 10-2-84, Formerly 25-12.45, Amended 1-7-92.

25-12.045 Inactive Gas Service Lines.

(1) ~~The following actions shall be taken for inactive gas service lines that have been used, but have become inactive without reuse:~~

~~(a) If there is no prospect for reuse, the service line shall be retired and physically abandoned within three months.~~ One of the following actions shall be taken with regard to customer service lines that are inactive for a period of two years, unless there is a prospect for reuse of the line within the subsequent twelve-month period. Within twelve months, the operator must:

(a) Provide the valve that is closed to prevent the flow of gas to the customer with a locking device or other means designed to prevent the opening of the valve by persons other than those authorized by the operator;

(b) Install a mechanical device or fitting that will prevent the flow of gas in the service line or in the meter assembly; or

(c) Disconnect the customer's piping from the gas supply and seal the open pipe ends.

(2) Inactive service line shall be monitored and maintained in accordance with all survey and repair requirements applicable to active customer service lines.

(3) Unrecorded inactive service lines discovered in the course of leakage surveillance, construction, maintenance or inspection of facilities shall be abandoned as soon as practicable but not more than 120 days after discovery, unless abandonment is otherwise required consistent with subsection (4) of this Rule.

(4) If a building is to be demolished or if there will be a major excavation of property on which there is an active or inactive service line, and if there is no reasonable prospect of future use, the service line shall be abandoned at the main. If there is a reasonable prospect of future use, the service line may be abandoned at the curb or property line and its status shall be reviewed annually, at periods not exceeding 15 months. The service line shall be disconnected either at the main or property line prior to demolition or excavation.

(5) If there is no prospect for reuse, the service line shall be physically abandoned and disconnected from all sources of gas. Companies subject to Chapter 25-7, Florida Administrative Code, shall retire any physically abandoned facilities.

~~(b) After a service line has been inactive for a period of two years, if there is a prospect for reuse of the line, one of the following actions shall be taken within six months:~~

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~~1. Disconnect the service line from all sources of gas and abandon or remove;~~

~~2. A valve on the service line shall be locked in the closed position and the service line plugged to prevent the flow of gas;~~

~~3. Remove the meter and plug the end of the service line to prevent the flow of gas.~~

~~(c) After five years of inactivity, service lines shall be retired and physically abandoned within six months.~~

(6~~2~~) ~~To physically abandon a service line, the operator must disconnect the service line from all sources of gas at the nearest point to the gas main.~~ Where the service line is to be physically disconnected from the gas supply and the appropriate governmental authority prohibits cutting pavement, the service line shall be disconnected at the nearest point to the main not under a paved surface. The stub of the service line, the short section of the remaining service line to the main, shall be disconnected closer to the main or at the main, if at some later date it becomes accessible ~~during normal operations~~.

(7~~3~~) Records must be kept of the size, material, and location of all remaining service line stubs. These records must be readily available to personnel assigned to pipeline locating activities.

Specific Authority 368.05(2), 366.06 FS. Law Implemented 368.05(2) FS. History–New 9-21-74, Repromulgated 10-7-75, Amended 10-2-84, Formerly 25-12.45, Amended 1-7-92.

Petition to Initiate Rulemaking
by the
Florida Natural Gas Association

Attachment C

U.S. Department of Transportation Pipeline and & Hazardous Materials Safety Administration

Stakeholder Communications – All Reported Pipeline Incidents by Cause

U.S. Department of Transportation Pipeline & Hazardous Materials Safety Administration

Pipeline Safety Stakeholder Communications

Pipeline Safety Connects Us All

All Reported Pipeline Incidents By Cause

This report is a sub-report of the Florida All Incident and Mileage Overview report. As such, it represents All Reported Incidents over the time period and pipeline system specified.

It should be noted that hazardous liquid incidents within the **All Reported Incidents** data set include many smaller spills of lesser significance for which operators were not required to report second level, or sub-causes. As a result, the causes for these incidents can only be categorized within the appropriate "Unspecified..." sub-cause. These smaller spills with no specific sub-cause are not included in the Serious or Significant Incidents data sets by definition. The various "Unspecified..." sub-causes used below also include those older incidents which could not be mapped more specifically due to legacy form issues associated with each type of pipeline system.

It should also be noted that, due to the differing nature of the smaller hazardous liquid incidents being reported in 2002 and beyond, the cause breakdowns for the aggregated incidents will change for this time period as well.

The data source for this table is the PHMSA Flagged Incident Files.[1] [2] [3]

More Pipeline Incidents and Mileage Reports are available.

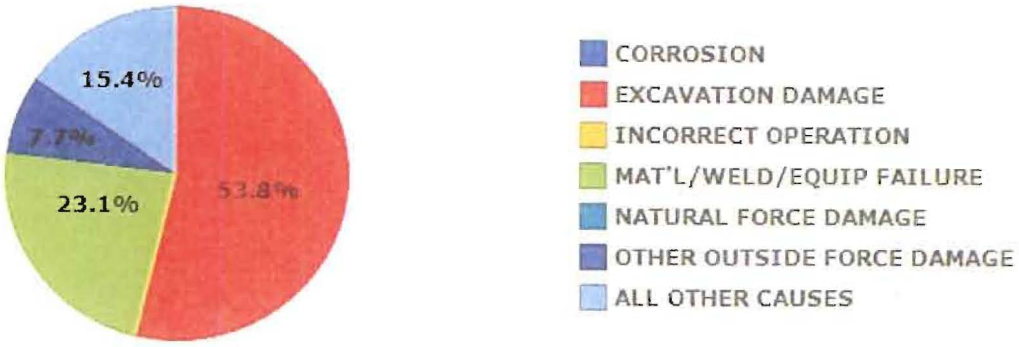
All Pipeline Systems | Hazardous Liquid | Gas Transmission | Gas Gathering | Gas Distribution

Florida Gas Distribution: All Reported Incident Details: 2002-2011

Reported Cause of Incident [A]	Number	%	Fatalities	Injuries	Property Damage [B] [C]	% of Property Damage
EXCAVATION DAMAGE						
THIRD PARTY EXCAVATION DAMAGE	7	53.8%	1	3	$730,404	72.6%
Sub Total	7	53.8%	1	3	$730,404	72.6%
MAT'L/WELD/EQUIP FAILURE						
BODY OF PIPE	1	7.6%	0	0	$0	0.0%
NON-THREADED CONNECTION FAILURE	2	15.3%	0	0	$190,070	18.9%
Sub Total	3	23.0%	0	0	$190,070	18.9%
OTHER OUTSIDE FORCE DAMAGE						
FIRE/EXPLOSION AS PRIMARY CAUSE	1	7.6%	0	0	$450	0.0%
Sub Total	1	7.6%	0	0	$450	0.0%
ALL OTHER CAUSES						
MISCELLANEOUS CAUSE	1	7.6%	0	0	$60,000	5.9%
UNKNOWN CAUSE	1	7.6%	0	1	$24,350	2.4%
Sub Total	2	15.3%	0	1	$84,350	8.3%
Totals	13	100.0%	1	4	$1,005,274	100.0%

Export Table

All Reported Incident Cause Breakdown
Florida, Gas Distribution, 2002-2011



Source: PHMSA Significant Incidents Files March 5, 2012

Notes

1. PHMSA has gathered increasingly targeted incident cause data over time. As such, the available reportable categories of cause (eg: Internal/External Corrosion vs Corrosion in general) have increased over time. This report spans time periods over which the reportable cause categories have changed. The cause categories in this report should be taken as general and not specific for years prior to 2002 for Liquid and Gas Transmission, and prior to 2004 for Gas Distribution.
3. The costs for incidents prior to 2011 are presented in 2011 dollars. Cost of Gas lost is indexed via the Energy Information Administration, Natural Gas City Gate Prices. All other costs are adjusted via the Bureau of Economic Analysis, Government Printing Office inflation values.
2. For years 2002 and later, property damage is estimated as the sum of all public and private costs reported in the 30-day incident report. For years prior to 2002, accident report forms did not include a breakdown of public and private costs so property damage for these years is the reported total property damage field in the report.

Sources

1. PHMSA Hazardous Liquid Flagged Incidents File - March 5, 2012. Note: Incidents occurring up to 30 days prior the Incident File source date may not appear in these reports due to the 30-day reporting period allowed by PHMSA regulation.
2. PHMSA Gas Transmission Flagged Incidents File - March 5, 2012. Note: Incidents occurring up to 30 days prior the Incident File source date may not appear in these reports due to the 30-day reporting period allowed by PHMSA regulation.
3. PHMSA Gas Distribution Flagged Incidents File - March 5, 2012 . Note: Incidents occurring up to 30 days prior the Incident File source date may not appear in these reports due to the 30-day reporting period allowed by PHMSA regulation.

See Pipeline Incidents and Mileage Reports for more pipeline safety reports.

U.S. Department of Transportation Pipeline & Hazardous Materials Safety Administration

Pipeline Safety Stakeholder Communications

Pipeline Safety Connects Us All

All Reported Pipeline Incidents By Cause

This report is a sub-report of the Georgia All Incident and Mileage Overview report. As such, it represents All Reported Incidents over the time period and pipeline system specified.

It should be noted that hazardous liquid incidents within the **All Reported Incidents** data set include many smaller spills of lesser significance for which operators were not required to report second level, or sub-causes. As a result, the causes for these incidents can only be categorized within the appropriate "Unspecified..." sub-cause. These smaller spills with no specific sub-cause are not included in the Serious or Significant Incidents data sets by definition. The various "Unspecified..." sub-causes used below also include those older incidents which could not be mapped more specifically due to legacy form issues associated with each type of pipeline system.

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More Pipeline Incidents and Mileage Reports are available.

All Pipeline Systems | Hazardous Liquid | Gas Transmission | Gas Gathering | Gas Distribution

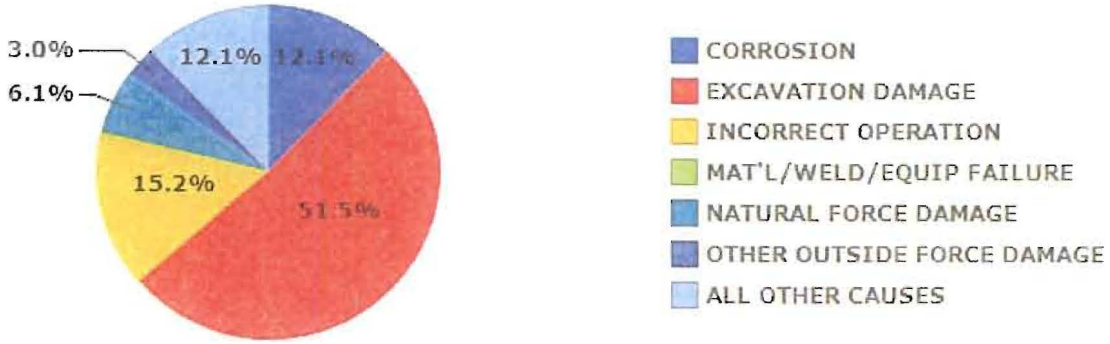
Georgia Gas Distribution: All Reported Incident Details: 2002-2011

Reported Cause of Incident [A]	Number	%	Fatalities	Injuries	Property Damage [B] [C]	% of Property Damage
CORROSION						
EXTERNAL CORROSION	4	12.1%	1	2	$330,500	2.8%
Sub Total	4	12.1%	1	2	$330,500	2.8%
EXCAVATION DAMAGE						
OPERATOR/CONTRACTOR EXCAVATION DAMAGE	2	6.0%	0	0	$59,304	0.5%
THIRD PARTY EXCAVATION DAMAGE	15	45.4%	1	5	$2,925,881	25.2%
Sub Total	17	51.5%	1	5	$2,985,185	25.7%
INCORRECT OPERATION						
DAMAGE BY OPERATOR OR OPERATOR'S CONTRACTOR	1	3.0%	1	0	$25,115	0.2%
INCORRECT VALVE POSITION	1	3.0%	0	0	$1,203,430	10.3%
UNSPECIFIED INCORRECT OPERATION	3	9.0%	0	3	$363,159	3.1%
Sub Total	5	15.1%	1	3	$1,591,704	13.7%
NATURAL FORCE DAMAGE						
LIGHTNING	1	3.0%	0	0	$15,000	0.1%
HIGH WINDS	1	3.0%	0	0	$18,750	0.1%
Sub Total	2	6.0%	0	0	$33,750	0.2%
OTHER OUTSIDE FORCE DAMAGE						
FIRE/EXPLOSION AS PRIMARY CAUSE	1	3.0%	0	0	$135,559	1.1%
Sub Total	1	3.0%	0	0	$135,559	1.1%
ALL OTHER CAUSES						
MISCELLANEOUS CAUSE	3	9.0%	0	0	$6,170,684	53.1%
UNKNOWN CAUSE	1	3.0%	0	1	$360,474	3.1%
Sub Total	4	12.1%	0	1	$6,531,158	56.2%
Totals	33	100.0%	3	11	$11,607,856	100.0%

Export Table

All Reported Incident Cause Breakdown

Georgia, Gas Distribution, 2002-2011



Source: PHMSA Significant Incidents Files March 5, 2012

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3. PHMSA Gas Distribution Flagged Incidents File - March 5, 2012 . Note: Incidents occurring up to 30 days prior the Incident File source date may not appear in these reports due to the 30-day reporting period allowed by PHMSA regulation.

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