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FPSC - COMMISSION CLERK

State of Florida



# Public Service Commission

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**-M-E-M-O-R-A-N-D-U-M-**

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**DATE:** December 4, 2014

**TO:** Office of Commission Clerk (Stauffer)

**FROM:** Division of Economics (Ollila) *J.D. PD J.W.D.*  
Office of the General Counsel (Brownless) *JSC for SBR*

**RE:** Docket No. 140204-GU – Joint petition for approval of flexible gas service tariff by Florida Public Utilities Company, Florida Public Utilities Company - Fort Meade, and Florida Public Utilities Company - Indiantown Division.

**AGENDA:** 12/18/14 – Regular Agenda – Tariff Filing – Interested Persons May Participate

**COMMISSIONERS ASSIGNED:** All Commissioners

**PREHEARING OFFICER:** Administrative

**CRITICAL DATES:** 60-Day Suspension Date Waived by the Companies Until the 12/18/14 Agenda Conference

**SPECIAL INSTRUCTIONS:** None

### Case Background

On October 17, 2014, Florida Public Utilities Company (FPUC), Florida Public Utilities Company – Fort Meade, and Florida Public Utilities Company – Indiantown Division (non-specifically the Company and jointly the Companies) filed a joint petition for approval of a Flexible Gas Service (FGS) tariff. On December 4, 2014, the Companies filed corrections to the proposed tariffs. FPUC’s FGS tariff, as corrected, is shown in Attachment 1 as a representative tariff, as the tariffs for the three companies are identical. The Commission has jurisdiction in this matter pursuant to Section 366.06, Florida Statutes.

### Discussion of Issues

**Issue 1:** Should the Companies' proposed FGS tariffs as corrected be approved?

**Recommendation:** Yes. The Commission should approve the Companies' proposed FGS tariffs as corrected. Staff recommends that when a Company executes an FGS service agreement, notice of such agreement be filed within 30 days with the Office of Commission Clerk. (Ollila)

**Staff Analysis:** To support the proposed FGS tariffs, the Companies explained that customers, especially large industrial customers, have multiple fuel options available to them. These options include the ability to bypass the Companies' distribution system and connect directly to interstate or intrastate pipelines, or replace natural gas with fuel oil or electricity. According to the Companies, the proposed tariffs will enable the Companies to negotiate competitive rates with qualifying customers and assure that existing customers will not subsidize agreements entered into pursuant to the tariff. The Companies will exclude all incremental costs related to serving FGS customers from rate base, and will record all expenses and revenues from FGS customers below-the-line putting the Companies' shareholders at risk of any investments made to serve an FGS customer.

In 1998, the Commission approved a similar flexible gas service tariff for the Florida Division of Chesapeake Utilities Corporation (Chesapeake).<sup>1</sup> Chesapeake currently has two flexible gas service arrangements. Two years earlier, the Commission approved a flexible gas service tariff for Florida City Gas.<sup>2</sup> Florida City Gas currently does not have any executed agreements.

The FGS tariff is available at the Companies' option to current and new customers who meet two applicability standards. First, the customer must provide verifiable documentation of a viable economic energy alternative. Second, the Company must demonstrate that the new customer will not cause any additional cost to the Company's general body of ratepayers. The negotiated terms of service under the FGS tariff will be set forth in confidential individual agreements between the Company and the customer. The negotiated FGS rates will not be set lower than the incremental cost of providing service to the customer. The individual agreements will not require Commission approval.

The proposed tariffs incorporate accounting measures which are designed to protect the Companies' general body of ratepayers by placing all capital costs, expenses, and revenues associated with this tariff below-the-line in earnings surveillance reports and future rate cases. These measures are consistent with the protective measures the Commission approved for the Chesapeake and Florida City Gas FGS tariffs. Furthermore, the Companies will not attempt to recover the difference between the applicable tariffs and the negotiated lower FGS rate from other customers through cost recovery clauses or in future rate cases.

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<sup>1</sup> Order No. PSC-98-1485-FOF-GU, issued November 5, 1998, in Docket No. 980895-GU, In re: Petition by Florida Division of Chesapeake Utilities Corporation for authority to implement proposed flexible gas service tariff and to revise certain tariff sheets.

<sup>2</sup> Order No. PSC-96-1218-FOF-GU, issued September 24, 1996, in Docket No. 960920-GU, In Re: Petition for approval of flexible service tariff by City Gas Company of Florida.

The proposed tariffs as originally filed included the following provision: “Within 30 days after a service agreement has been executed under this rate schedule, the Company shall file the service agreement and related documents with the Commission’s Division of Records and Reporting [sic] for review by the Commission Staff who shall treat them as confidential documents.” Staff notes that this provision does not require Commission approval of each FGS contract; it is strictly a reporting requirement. Staff believes that the filing of each confidential service agreement is not necessary; rather, a notice filed by the Company with the Office of Commission Clerk that an FGS service agreement has been executed would be sufficient. Any executed agreements will be available for review by Commission staff if needed. The Companies filed corrected tariff pages on December 4, 2014, which include the removal of the above-quoted provision.

#### Conclusion

Staff believes that the proposed tariffs, as corrected, contain adequate safeguards to protect existing customers from being adversely affected by or subsidizing FGS customers and that they provide for Commission oversight as necessary. Despite the low number of executed agreements seen for Chesapeake and Florida City Gas, staff believes that the FGS tariffs will provide the Companies with pricing flexibility to attract and retain customers that have viable energy options. Staff believes the proposed FGS tariffs, as corrected, are reasonable and recommends approval. Staff recommends that when a Company executes an FGS service agreement, notice of such agreement be filed within 30 days with the Office of Commission Clerk.

**Issue 2:** Should this docket be closed?

**Recommendation:** Yes. If Issue 1 is approved, the tariffs should become effective on December 18, 2014. If a protest is filed within 21 days of the issuance of the order, the tariffs should remain in effect, with any revenues held subject to refund, pending resolution of the protest. If no timely protest is filed, this docket should be closed upon the issuance of a consummating order. (Brownless)

**Staff Analysis:** If Issue 1 is approved, the tariffs should become effective on December 18, 2014. If a protest is filed within 21 days of the issuance of the order, the tariffs should remain in effect, with any revenues held subject to refund, pending resolution of the protest. If no timely protest is filed, this docket should be closed upon the issuance of a consummating order.

Florida Public Utilities Company  
F.P.S.C. Gas Tariff  
Third Revised Volume No. 1

Seventh Revised Sheet No. 32  
Cancels Sixth Revised Sheet No. 32

FLEXIBLE GAS SERVICE  
Rate Schedule FGS

Objective:

The objective of this service classification is to enable the Company the opportunity to compete in markets where natural gas service is not a monopoly service.

This tariff provides the Company with both the opportunity and risk to compete in these markets. It is designed to increase load by working with customers with regard to the specific terms and conditions of service.

This tariff places the Company's shareholders at risk, not the general body of ratepayers (see rate-making treatment).

Applicability:

This service is available at the Company's option to customer(s) meeting the applicability standards, which include (1) the customer must provide the Company with a viable economic energy alternative including verifiable documentation of customer alternative and (2) the Company must demonstrate that this new customer will not cause any additional cost to the Company's other rate classes. The Company is under no obligation to grant service under this tariff. Absent a service agreement with the Company under this rate schedule, customers are under no obligation to accept service under this rate schedule, and may elect to receive service under other applicable tariff rate schedules.

Terms of service under this rate schedule, including pressure, capital repayment, operating conditions and length of service are separately set forth in individual agreements between the Company and the Customers.

(Continued to Sheet 32.1)

Issued by: Jeffry Householder, President

Effective:

Florida Public Utilities Company  
F.P.S.C. Gas Tariff  
Third Revised Volume No. 1

Original Sheet No. 32.1

FLEXIBLE GAS SERVICE  
(Continued from Sheet No. 32)

Monthly Rate:

The rate will be developed based on economic market conditions at the time gas service is requested.

Confidentiality:

The Company and Customer each regard the terms and conditions of the negotiated service agreement as confidential, proprietary business information.

The Company and Customer agree to utilize all reasonable and available measures to guard the confidentiality of said information, subject to requirements of courts and agencies having jurisdiction hereof.

In the event either party is asked to provide the information by such a court or agency, it will promptly inform the other of the request, and will cooperate in defending and maintaining the confidentiality of the information.

This provision shall not prohibit or restrict the FPSC from reviewing the service agreement in the performance of its duties, but the FPSC shall treat the service agreement as a confidential document.

Rate-Making Treatment:

To the extent that the Company enters into flexible gas service agreements with customers, the Company is at risk for the capital investment necessary to serve the flexible gas service tariff customers, not the general body of ratepayers.

(Continued to Sheet No. 32.2)

Issued by: Jeffry Householder, President

Effective:

Florida Public Utilities Company  
F.P.S.C. Gas Tariff  
Third Revised Volume No. 1

Original Sheet No. 32.2

FLEXIBLE GAS SERVICE  
(Continued from Sheet 32.1)

Rate Base:

In the case of providing service to a customer under this tariff, the Company will identify the incremental investment and capital costs required to provide service to the customer. These costs will be excluded from rate base.

Operating, Maintenance and Administrative Expenses:

The Company will specifically identify all incremental costs, if any, associated with the flexible gas service tariff Customer. These expenses will primarily be related to the incremental capital required to serve the customer. In addition, the Company will allocate embedded costs including general distribution and maintenance, meter reading, customer billing and accounting, sales, and administrative expenses.

In future rate cases and earnings surveillance reports, the Company will exclude all operating, maintenance, and administrative costs related to this tariff as determined by this methodology.

Depreciation and Amortization Expenses:

The Company will exclude all depreciation and amortization expenses related to this tariff in future rate cases and in its earnings surveillance report. Depreciation and amortization expenses may be incremental and/or allocated and will be determined based on the rate base allocated to each customer under this tariff as defined above.

Revenue and Related Taxes:

Revenues related to this tariff will be excluded from regulated revenues. In filing earnings surveillance reports, the Company will remove actual revenues related to this tariff, as well as revenue related taxes and income taxes from its calculation of FPSC adjusted rate of return.

All cost allocation related to this tariff shall remain subject to FPSC audit.

Issued by: Jeffry Householder, President

Effective: