

FLORIDA PUBLIC SERVICE COMMISSION  
Capital Circle Office Center • 2540 Shumard Oak Boulevard  
Tallahassee, Florida 32399-0850

MEMORANDUM

October 23, 1997

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11:35  
FPSC - Records/Reporting

TO: DIRECTOR, DIVISION OF RECORDS AND REPORTING (BAYO)

FROM: DIVISION OF ELECTRIC & GAS (BULECIA-BANKS, MAKIN, DILLMORE) <sup>APP</sup> <sub>WVE</sub> <sub>JDS</sub>  
DIVISION OF LEGAL SERVICES (KEATING) <sub>WVE</sub>

RE: DOCKET NO. 971208-GU - NOTICE BY ST. JOE NATURAL GAS COMPANY, INC. OF EXECUTION OF SETTLEMENT AGREEMENT AND CONTRACT TRANSPORTATION SERVICE AGREEMENT WITH FLORIDA COAST PAPER COMPANY, L.L.C. AND, TO EXTENT REQUIRED, PETITION FOR EXPEDITED APPROVAL OF AGREEMENTS.

AGENDA: 11/04/97 - REGULAR AGENDA - PROPOSED AGENCY ACTION - INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: S:\PSC\EAG\WP\971208GU.RCM

CASE BACKGROUND

Between 1989 and 1993, St. Joe Forest Products Company, Inc., (St. Joe Forest) and St. Joe Natural Gas Company (Company) entered into three agreements. Those agreements (Large Volume Service, Sale and Purchase, and Large Interruptible Service) were for the transportation and sale of natural gas on a firm basis for the paper mill, owned, at that time, by St. Joe Forest, in Port St. Joe, Florida.

To obtain the capacity necessary to bring the natural gas contracted for by St. Joe Forest, the Company entered into two firm transportation agreements (FTS-1 and FTS-2) with Florida Gas Transmission Company (FGT). These contracts obligated the Company to pay FGT a monthly pipeline reservation charge for the firm capacity. over time, the Company billed St. Joe Forest for the FGT reservation charges along with other charges for gas purchased from the Company.

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To supply the natural gas contracted for by St. Joe Forest, the Company secured a loan with NationsBank of Florida in the amount of \$2,331,841 to finance the construction of an eight-inch natural gas pipeline from FGT's lateral in Overstreet, Florida, to the Company's existing meter station in Gulf County, Florida. In support of the NationsBank loan, St. Joe Forest, under execution of the Security Agreement, agreed to make direct payments to the lender on behalf of the Company in the amount of \$39,396.45 per month, regardless of the actual therms sold and/or delivered by the Company to St. Joe Forest during any given month.

On May 30, 1996, St. Joe Forest sold its paper mill in Port St. Joe, Florida, to Florida Coast Paper Company, L.L.C. (Florida Coast) and assigned to Florida Coast its rights and obligations under the three agreements with the Company. Subsequent to the assignment, Florida Coast and the Company had disputes over contract terms, capacity obligations, and Florida Coast's performance under the three agreements. As a result, in June 1997, the Company brought suit against St. Joe Corporation (SJC), St. Joe Forest's parent corporation, in the circuit court for Duval County, Florida, Case No. 97-03190CA. Florida Coast moved to intervene in the litigation.

Because of this dispute, the Company sought relief of its FGT-1 obligation. In July 1997, the Company was relieved of its future obligation to pay the monthly reservation charges under its PTS-1 agreement with FGT. The Company was able to release its capacity to a marketer who was willing to purchase the capacity obligation under the PTS-1 agreement.

With the future capacity obligation removed, the Company and Florida Coast entered into negotiations in an attempt to resolve their disputes over contract terms and Florida Coast's past performance, and to agree on amendments to the three agreements for future performance. The contract negotiations resulted in a settlement agreement. The Company petitioned the Commission on September 15, 1997, for approval of this settlement.

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### DISCUSSION OF ISSUES

**ISSUE 1:** Should the Commission approve St. Joe Natural Gas Company, Inc.'s Notice of Execution of Settlement Agreement and Contract Transportation Service Agreement with Florida Coast Paper Company, L.L.C.?

**RECOMMENDATION:** Yes. The Commission should approve St. Joe Natural Gas Company, Inc.'s Notice of Execution of Settlement Agreement and Contract Transportation Service Agreement with Florida Coast Paper Company, L.L.C.

**STAFF ANALYSIS:** The Company filed its Notice of Execution of Settlement Agreement and Contract Transportation Service Agreement for approval on September 15, 1997. As a result of the Settlement Agreement, Florida Coast agrees to pay \$503,370.97 owed to FGT by the Company for unpaid capacity reservation charges under the PTS-1 and PTS-2 Agreements, including any interest owed up to and including the date of execution. Florida Coast negotiated the terms of payment directly with FGT such that FGT looks solely to Florida Coast for payment and releases any and all claims against the Company for the amount owed for unpaid capacity reservation charges under the PTS-1 and PTS-2 Agreements.

The Company and Florida Coast agree to amend the Sale and Purchase Agreement as follows:

- Florida Coast agrees to make monthly payments of \$39,396.45 directly to NationsBank until the NationsBank loan is paid in full.
- Florida Coast agrees to make these monthly payments regardless of whether any actual therms of natural gas are sold and/or delivered by the Company to Florida Coast in any month during the term of the Sale and Purchase Agreement.
- The amount of each payment made by Florida Coast to NationsBank will be credited by the Company to Florida Coast's prepaid gas account.
- After the effective date of the Amended Agreement, the monthly payments for the NationsBank loan are the only payments by Florida Coast that will be credited to the prepaid gas account.

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- The volumes of natural gas required to be sold or transported on a firm basis are deleted and replaced by the minimum annual and monthly volumes of natural gas required to be paid for, regardless of the volumes actually transported, pursuant to the terms of the Contract Transportation Service Agreement.
- The rate applied to the volumes purchased or transported on the Company's distribution system shall be the effective tariff rate, as approved by the Commission.
- Beginning on the effective date of the Amended Agreement, payments made by Florida Coast for gas required for transport, but not taken by Florida Coast, shall not constitute prepaid gas as provided for in the original Sale and Purchase Agreement.
- Beginning on the date of the Agreement, interest on Florida Coast's gas account, as provided for in the Sale and Purchase Agreement, shall cease to accrue.
- Prior to the date the NationsBank loan is paid in full, Florida Coast may access its prepaid gas account on a monthly basis only after it has paid the Company for an amount in excess of 660,680.33 therms of natural gas within the month. Once the 660,680.33 therms of natural gas threshold has been met in the month, amounts above 660,680.33 therms bought or transported will be credited against the prepaid gas account, based on the current applicable tariff rate.
- After the NationsBank loan is paid in full, Florida Coast can access the prepaid gas account after the Company is paid for an amount in excess of 367,500 therms within the current month. One half of amounts above 367,500 therms will be paid for from the prepaid gas account and the balance will be paid in cash by Florida Coast, based on the applicable tariff rate.
- The Amended Sale and Purchase Agreement shall continue in effect until such date as both the NationsBank loan has been paid in full and the balance in the prepaid gas account has been reduced to zero.
- On the date when both events have occurred, the Amended Sale and Purchase Agreement shall automatically terminate and neither Florida Coast nor the Company shall have further obligations to the other under that agreement.

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- Delete references to 1,895,808 therms and monthly proceeds, substituting the minimum therms required to be paid for under the Amended Agreement in order to access the prepaid gas account.
- On the date when the NationsBank loan has been paid in full and the balance in the prepaid gas account has been reduced to zero, the Amended Security Agreement shall automatically terminate and neither Florida Coast nor the Company shall have any further obligations to the other under the Security Agreement.

On the date of execution of the Settlement Agreement and the Contract Transportation Agreement, the Large Volume Service Agreement and the Large Service Agreement shall terminate. Thereafter, the relationship between Florida Coast and the Company's regarding gas supply shall be governed by the Settlement Agreement, the Purchase and Sale Agreement, as amended, and the Contract Transportation Service Agreement.

ISSUE 2: Should this docket be closed?

RECOMMENDATION: Yes. If no person, whose substantial interests are affected by the Commission's proposed agency action, timely files a protest within 21 days of the issuance of the order, this docket should be closed.

STAFF ANALYSIS: Pursuant to Rule 25-22.029(4) Florida Administrative Code, any person, whose substantial interests are affected by the Commission's proposed agency action, shall have 21 days after issuance of the order to file a protest. If no timely protest is filed, the docket should be closed.