Ruth Nettles 090522-GU

From: beth.keating@akerman.com
Sent: Wednesday, December 02, 2009 12:37 PM
To: Filings@psc.state.fl.us
Subject: New Filing - Petition for Extension of Waiver of Portions of Rule 25-12.045, F.A.C.
Attachments: 20091202132125997.pdf

Attached for electronic filing, please find a Petition for Extension of Waiver of Portions of Rule 25-12.045, F.A.C., submitted today on behalf of the Florida Natural Gas Association. Please do not hesitate to contact me if you have any questions.

Sincerely,
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B. New Filing - Petition for Extension of Waiver of Portions of Rule 25-12.045, Florida Administrative Code, Granted by Order No. PSC-07-0488-PAA-GU and Order No. PSC-07-0830-AS-GU .

C. Filed on behalf of the Florida Natural Gas Association

D. Number of Pages: 18

E. Petition for Extension of Waiver of Portions of Rule 25-12.045, F.A.C.

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BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

In the Matter of: Petition By the Florida Natural Gas Association for Extension of Waiver of Portions of Rule 25-12.045, F.A.C., Granted by Order No. PSC-07-0488-PAA-GU and Order No. PSC-07-0830-AS-GU.	))))))))	Docket No. Filed: December 2, 2009

THE FLORIDA NATURAL GAS ASSOCIATION'S PETITION FOR EXTENSION OF WAIVER OF THE SERVICE LINE ABANDONMENT PROVISIONS OF RULE 25-12.045, FLORIDA ADMINISTRATIVE CODE

The Florida Natural Gas Association ("FNGA"), pursuant to Section 120.542, Florida Statutes, and Rule 28-104.002, Florida Administrative Code, hereby petitions the Florida Public Service Commission ("FPSC") for an extension of the waiver of the service line abandonment provisions of Rule 25-12.045, Florida Administrative Code, granted by the Commission by Order No. PSC-07-0488-PAA-GU, as clarified by Order No. PSC-07-0830-AS-GU, issued in Docket No. 070135-GU. The referenced Rule, from which the FNGA previously obtained a waiver on behalf of its members, requires natural gas companies to plug the service line and remove the meter on any line that has been inactive for two years, and to physically abandon and disconnect such service line after five years of inactivity. By Order No. PSC-07-0488-PAA-GU, the Commission granted the FNGA members a two-year waiver from these so-called "cut and cap" requirements. FNGA now seeks an extension of this waiver for an additional two-year period. In support of this Petition, FNGA hereby 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 30302

2. The names and mailing addresses of the persons to whom notices, orders and correspondence regarding this Petition are to be sent are:

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3. The FNGA is a natural gas trade association representing investor-owned, special gas district and municipal Local Distribution Companies (LDCs), gas transmission companies, gas marketing companies and others affiliated with the natural gas industry. All of Florida's seven 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 are subject to the regulatory jurisdiction of this Commission for gas safety as prescribed in Chapter 368, Part I, Florida Statutes, and Commission Rule 25-12.045, F.A.C. The FNGA LDC members' substantial interests will be affected by the Commission's disposition of this petition in that the ability to temporarily defer the removal of meters and service lines in support of various LDC reconnection marketing efforts, under terms and conditions agreeable to the FNGA LDC members, will be thereby determined. The FNGA's members are subject to the regulatory jurisdiction of the FPSC.

4. Rule 25-12.045, Florida Administrative Code, applies directly to FNGA's LDC members, and FNGA meets the definition of "person," as referenced in Section 120.542, and defined in Section 120.52(13), Florida Statutes. The FNGA hereby submits this Petition on behalf of its member companies, 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 and germane to the FNGA's organizational purpose. See Hunt v. Washington State Apple Adver. Comm'n, 432 U.S. 333 (1977)(setting forth three prong test for associational standing).

5. Rule 25-12.045, Florida Administrative Code, provides for the physical abandonment of gas service lines that have been used but become inactive with no prospect for reuse. If there is no prospect for reuse the service line must be physically abandoned and retired within three (3) months of becoming inactive. The Rule also provides that, after two (2) years of inactivity, assuming the prospect of reuse does still exist, an LDC must take one of the following actions with six (6) months:

- Disconnect the service line from all sources of gas and abandon or remove.
- Lock off a service line valve and plug the line to prevent the flow of gas.
- Remove the meter and plug the service line.

After five (5) years of inactivity, an LDC has six (6) months to physically abandon and retire the service line. Sub-sections (2) and (3) of Rule 25-12.045 provide, respectively, detail on the procedures for physical abandonment of a service line and the records of service line stubs that must be maintained by the LDC.

6. Virtually all LDCs elect to remove the meter and plug the service line after two years of inactivity. The cost for an LDC to remove a meter in the field, plug the service line and complete the applicable recordkeeping requirements ranges from approximately $75 to $100 per meter. Physically abandoning a service line involves locating the service line, excavating the line at a point close to the gas main, cutting and capping the service line, restoring the excavation area to its original condition and completing the applicable recordkeeping. Typically, the cost for physical abandonment of a service line ranges from approximately $350 to $500 per service. If pavement cuts or other significant restoration activities are required, the cost will increase. From an investment perspective, reactivating a customer with an existing meter and/or service line represents an LDC's lowest cost customer addition.

7. It is rare for a service line to be deemed by an LDC as having "no prospect for reuse" at the time the service becomes inactive. Occasionally, the discontinuance of service could also dictate immediate abandonment of the service facilities. For example, an industrial facility terminating business with no prospect for a new occupant, or the demolition of a premise could require an immediate abandonment of a service line. However, when a typical residential or commercial service location becomes inactive, LDCs generally assume there is a reasonable prospect for reuse. Thus, it is not practical to immediately remove the meter or abandon the service line. In most cases, the service is reactivated as new residents or business owners occupy a vacant premise and become gas customers. Rule 25-12.045, F.A.C., recognizes this opportunity for LDCs to reconnect an inactive service by including the two and one-half year meter removal and five and one-half year service abandonment time periods described above.

Historically, few services have been reactivated subsequent to these time periods, especially services to residential premises.

8. As a general matter, residential services account for most of the services cut and capped each year (estimates from several LDCs indicate over 90% of inactive services are residential). Residential customer retention has become a significant challenge for the gas industry. Natural gas has always been an optional service, and there are readily available alternative fuels for each gas application. While natural gas has long held an advantage over most alternatives in operating costs and various customer features (cooking temperature control as an example), the initial installation cost of gas appliances is usually somewhat higher than electric appliances. Moreover, most manufacturers and distributors of heating, water heating, cooking and clothes drying appliances provide both gas and electric models, and are generally indifferent to which models they sell. In addition, there are far fewer contractors (mechanical and plumbing) and appliance dealers that offer gas installation services or gas appliances than those supporting electric installations.

9. Historically, the natural gas industry's marketing programs have focused primarily on getting gas service into new homes. In a state with a booming residential construction market and given the limited marketing resources available to LDCs, that was an appropriate decision. However, as appliances have reached the end of their service lives and failed, consumers often have found it difficult to locate qualified service technicians or suitable replacement appliances. More often than not, the gas appliance has then been replaced with an electric appliance. At the end of the service life of the homeowner's last gas appliance, the gas service becomes inactive, and in accordance with the Rule, eventually the service is abandoned.

When this situation is coupled with the significant turn-over rate in Florida residences, it is understandable why it is not unusual for a consumer living in a home at the time of a service cut and cap to have no knowledge that gas service was ever available to the home.

10. It should come as no surprise that the current economic slowdown has also had a major impact on the number of inactive gas services in Florida. Although it appears the national recession may waning, most economists are projecting that economic recovery for Florida may lag at least a year behind the rest of the nation (Fishkind and Associates, Inc).[1] The primary focal point of the Florida recession for the utility industry has been the slumping housing and commercial construction markets. The housing market was significantly overbuilt, creating a substantial gap between the supply of new housing units and demand for the units, especially in the multi-family market. Thousands of new residences across the state, many piped for natural gas, have never been occupied. Developers and builders have turned-off the gas service on most of these unoccupied units to avoid the monthly minimum bill charges. These residences are inactive.

11. Compounding the problem, Florida has the 2nd highest foreclosure rate in the nation. Foreclosure filings through the third quarter of 2009 totaled 485,635, up from over 250,000 in 2008. The foreclosure rate is expected to drop in 2010 to 200,000 mortgages. The number of inactive gas services related to unoccupied new residences and vacant home foreclosures has dramatically increased over the past two years at virtually every Florida LDC.

[1] Many forecasts, among them the University of Florida Bureau of Economic and Business Research (BEBR), project that population growth will resume in 2010 following a slump in 2009. These same forecasts project that job growth will return in 2011, although at significantly reduced levels compared to the previous decade, but nonetheless, point to another poor year for Florida's housing market in 2010, with a slow recovery in that sector beginning in 2011. While foreclosure rates are projected to drop and existing home sales are increasing, a significant inventory of new and vacant foreclosed homes still remains to be sold.

Moreover, the gas industry has experienced a continuing rise in residential inactive services since late 2007. Consequently, many residences are now reaching the two-year inactive status that triggers the meter removal and service line plug required by Commission Rule 25-12.045, F.A.C. The number of inactive services reaching the two-year mark is expected to increase in 2010.

12. It should be noted that the inactive services resulting from the current economic slump are different in character to service that become inactive due a conversion to another fuel. The inactive vacant homes are piped for natural gas and as they are occupied will active the gas service. Absent the extension of the Rule waiver, Florida LDCs will be required to remove the meters and plug the service lines on residences that will undoubtedly initiate or return to service as housing sales escalate.

13. Over the past several years, Florida LDCs have been working independently, and collectively through the FNGA, to establish the marketing and incentive tools needed to improve the retention of existing customers and attract inactive customers back to gas service. The following list outlines some of the actions taken to date:

- The number of contractors qualified to provide gas installations and service has been increased. Many LDCs have initiated gas contractor programs, generally patterned on the Southern Gas Association's, Gas Advantage Dealer program. These programs are offering customer referrals, gas equipment and installation training and facilitating increased contacts between contractors, manufacturers and distributors of gas appliances.

- A similar effort to increase the quantity and model selection of gas appliances available at Florida appliance retailers is also underway. A number of LDCs have relationships with national "big box" retailers (Sears, Lowes, Home Depot, for example) as well as local appliance dealers.
- The FNGA and each of the investor-owned LDCs fund a joint gas energy conservation advertising and consumer education program. The statewide "Get Gas Florida" campaign is primarily directed at educating the public about the availability and benefits of gas appliances and features the energy conservation programs offered by many Florida LDCs. Supporting a common "Get Gas Florida" information campaign reduces development costs and enables bulk purchasing discounts that greatly increase the coverage and effectiveness of the program.
- The FNGA Marketing Committee has developed an on-going relationship with several building and appliance industry trade groups to increase their exposure to natural gas appliances, installation techniques and technical information. Among these groups are the Florida Engineering Society, the Florida Chapter of the American Institute of Architects and the Florida Homebuilders Association. In addition, FNGA retains two outside firms that visit dozens of architects and engineers each year to discuss various gas technologies and equipment.
- The FNGA Building Codes and Standards Committee is working with a number of organizations that represent local building code enforcement jurisdictions. FNGA provides technical training on gas installations techniques

and emerging technologies (tankless water heaters, desiccant dehumidification, etc.). FNGA sponsored technical seminars on gas topics offer continuing education credits for inspectors (and other industry professionals). The intent is to ensure that gas permitting and inspections are based on factual, technically accurate information, and do not cause undue delays or costs in the appliance installation process. The Building Codes and Standards Committee also actively participates in various Florida and national building code and standard modification processes. As an example, recently the FNGA sponsored a Florida Energy Code modification that ensured gas tankless water heaters received appropriate recognition for the high Energy Factor rating achieved by that technology.

- The FNGA has included several equipment manufacturers (Rinnai, Generac, NovelAir, various hearth products companies, to date) in its trade show appearances, advertising and visits with architects and engineers. FNGA will continue to support efforts to increase the dissemination of information on gas products to consumers, retailers and the building industry.

14. In 2006 and 2007, the investor-owned LDCs individually petitioned the Commission for modification of their Energy Conservation Programs.[2] One of the primary goals associated with these filings was to improve the industry's ability to retain existing customers and reactivate inactive services. Each of the above LDCs received approval from the Commission to increase the allowances provided through their residential Appliance Retention

[2] See *Florida Public Utilities* - Order No. PSC-06-0749-PAA-GU; *Peoples Gas System* - Order No. PSC-06-0816-PAA-EG; *Florida City Gas* - Order No. PSC-07-0122-PAA-EG; *Chesapeake Utilities Florida Division* - Order No. PSC-07-0197-PAA-EG; *Indiantown Gas Company* - Order No PSC-07-0531-TRF-EG; *Sebring Gas System* - Order No. PSC-07-0693-TRF-EG; and *St. Joe Natural Gas Company* -Order No. PSC-07-0495-PAA-EG

and Replacement Programs. The increased allowance amounts are intended to stop customer loss before the service becomes inactive and encourage consumers occupying residences with inactive gas service facilities to become active gas customers.

15. Ultimately, the best energy conservation measure a homeowner or business can take is to choose gas appliances over electric.[3] Supporting the new allowance amounts, will be an enhanced consumer information effort, including the "Get Gas Florida" campaign. Historically, "Get Gas Florida" campaigns have stopped short of promoting specific conservation allowances, given that the allowances were approved in different amounts for each investor-owned LDC. Since each investor-owned LDC is approved to offer the same allowance amounts, the gas industry is able to deliver a more powerful message through its conservation education programs. The first "Get Gas Florida" campaign with standardized conservation allowance messages is scheduled to began in late 2007. Subsequent campaigns have all included the conservation incentive message. It should also be noted that several unregulated municipal LDCs also offer conservation or similar allowance programs.

16. The activities described above represent unprecedented levels of statewide natural gas related marketing and consumer education, much of which is directed toward the retention of existing customers and the reactivation of inactive services. Since the Commission's approval of the waiver of the "cut and cap" requirements in 2007, many LDCs have also developed internal marketing programs designed to specifically target inactive service restoration. These programs appear to be working.

[3] See "Public Policy and Real Energy Efficiency Report," American Gas Foundation (October 2005).

17. The current Rule waiver is scheduled to terminate December 31, 2009. If the current Rule waiver terminates, the meter removal and service line abandonment provisions in Rule 25-12.045 will require the removal of thousands of meters and the cut and cap of thousands of service lines in 2010 and 2011. Many of the services became inactive as residential vacancy rates increased due to the decline in new construction and the increase in mortgage foreclosures. As noted herein, these residences are not inactive due to conversions of gas to electricity. Thus, as the market returns, the gas industry has every expectation that the great majority, if not all, of the residences will active gas service. If the Rule extension is denied, the gas industry will incur significant expense to remove the meters on these vacant homes, only to turn around and incur more expense to reactive the service when the units are ultimately sold and occupied. In addition, FNGA member LDCs would also like to continue its efforts to encourage reactivation of those services that have become inactive due to fuel conversions. It appears that the gas industry is experiencing success in reactivating services that have become inactive. For example, Peoples Gas reports that 3,268 service lines inactive over eighteen months have been reactivated in 2009, through August.

18. FNGA is seeking a deferral of the Rule provisions that require meter removal or the cut and cap of the service line for a additional period of twenty-four (24) months. While FNGA is seeking this waiver for only 2 years per line, the FNGA would like this waiver to apply to any and all similar such service lines that reach the two (2) or five (5) year inactive status cut-off mark anytime in the 2010 calendar year. Consequently, FNGA asks that the temporary waiver be extended through December 31, 2011, which is twenty-four (24) months from the date

of the expiration of the waiver provisions originally approved by Order No. PSC-07-0488-PAA-GU.

19. LDC's will continue to maintain records, in addition to those specified in Rule 25-12.045 (3), Florida Administrative Code, regarding the location of each deferred inactive service line and any reported line breaks or other incidents related to the service line. Florida's inactive service line standards are significantly more restrictive than those in other states. In fact, most states do not have meter and service line removal requirements. As before, it is highly unlikely that deferring the abandonment of inactive service lines during the waiver period will impact the safety of the distribution systems. Recent data provided by Peoples Gas System tracks service line leak calls on active and in-active service lines. Peoples Gas data indicates virtually no difference in the percentage of leak calls for active vs. inactive services (the leak report percentage actually drops for services inactive over sixty months). The Peoples Gas data is provided in Attachment 1 to this Petition.

20. At the conclusion of the proposed extended waiver period (December 31, 2011), FNGA will consolidate information from each LDC member and submit a summary report to the Commission, within ninety (90) days, describing the results achieved by each LDC for any deferred inactive service line to reactivate such facilities. Furthermore, if the waiver is not thereafter further extended, FNGA asks that, consistent with Order PSC-07-0488-PAA-GU, at the expiration of the waiver period, each FNGA member be allowed until December 31, 2013, to complete all necessary activities to return to compliance with the current rule provisions.[4]

[4] The Commission's Order, Order No. PSC-07-0488-PAA-GU, granting the Rule waiver, provided for a two year "catch-up" period following the waiver, which was designed to allow LDCs to return to compliance with the meter removal and cut and cap requirements within a reasonable time frame.

FNGA will include a proposal in its report to the Commission as to what the time period should be.

21. The specific statutory provision underlying Rule 25-12.045, Florida Administrative Code, is Section 368.05(2), Florida Statutes, which provides as follows:

> The commission shall have the power to perform any and all acts necessary or appropriate to the exercise of the authority granted under the provisions of this law. The commission has authority to adopt rules pursuant to ss. 120.536(1) and 120.54 to implement provisions of law conferring duties upon it. The commission may require the filing of periodic reports and all other data reasonably necessary to determine whether the safety standards prescribed by it are being complied with; may require repairs and improvements to the gas transmission and distribution piping systems subject to this law which are reasonably necessary to promote the protection of the public; and may exercise all judicial powers, issue all writs, and do all things necessary or convenient to the full and complete exercise of its jurisdiction and the enforcement of its safety orders and rules adopted pursuant to this law.

The general purpose, as provided in Section 368.03, Florida Statutes, is:

> . . . that the requirements of such rules and regulations 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.

In accordance with Section 120.542(2), Florida Statutes, the FNGA hereby states that the purpose of the underlying statutes will still be fulfilled if the Commission grants FNGA's request for an extension of the temporary waiver approved in Order No. PSC-07-0488-PAA-GU. As set forth above, the member LDCs will be monitoring and actively endeavoring to re-initiate service on these inactive service lines, as well as compiling information regarding attempts to encourage new service on such lines. Consequently, it is unlikely that any safety issues related to further deferral of the service abandonment provisions will arise, because the lines will be closely monitored. Furthermore, if the extension is not granted, it could result in unnecessary, duplicative costs associated with those lines that are physically abandoned and "capped," but upon which service is subsequently re-initiated as a result of the new marketing programs discussed herein, if such marketing programs prove to be as successful as anticipated.

REQUEST FOR RELIEF

For all the foregoing reasons, the Florida Natural Gas Association requests that the Commission provide the following relief:

1. Grant this petition for temporary waiver of the service line abandonment provisions of Rule 25-12.045, Florida Administrative Code, for a period of twenty-four (24) months from the date of the expiration of the waiver provisions approved by Order No. PSC-07-0488-PAA-GU, but in no circumstances beyond December 31, 2011.[5]

2. Consistent with the "catch up" provision in Order PSC-07-0488-PAA-GU, allow FNGA's members an additional two-year period, until December 31, 2013, in which to return to compliance with the provisions of Rule 15-12.045, Florida Administrative Code, should the

[5] FNGA notes that while all its member LDCs support this Petition for Waiver, certain LDCs may elect to continue to apply the current rule provisions and standards in certain neighborhoods or throughout their territory.

temporary waiver not be extended thereafter at the conclusion of this proposed extended waiver period.

Respectfully submitted this **2nd** day of December, 2009.

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Attachment 1

Peoples Gas System
Service Line Reactivations and Leak Calls
Cummulative Data through 3rd Quarter 2009

Total Service Lines	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
ACTIVE Service Lines	332,734	333,550	333,785	332,124	330,929	330,117	329,226	328,909	329,272	329,808		
Inactive (under 60 months)	43,345	42,436	42,442	43,739	44,869	45,557	46,230	46,391	46,467	46,122		
Inactive (60 and over months)	8,115	8,373	8,713	9,183	9,511	9,853	10,177	10,471	10,675	10,902		
Total Service Lines	384,194	384,359	384,940	385,046	385,309	385,527	385,633	385,771	386,414	386,832	-	-

Leak Call, Service Lines	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Total
ACTIVE Service Lines	167	235	244	248	230	305	192	280	193	176			2,270
Inactive (under 60 months)	24	23	24	15	16	29	26	26	16	16			215
Inactive (60 & over months)	1	4	2	2	1	5	8	7	5	6			41
Total Service Leak Calls	192	262	270	265	247	339	226	313	214	198	-	-	2,526

Reactivations	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Total
Inactive (under 18 months)	167	156	146	149	151	160	139	149	147	180			1,544
Inactive (18 to 59 months)	229	265	265	262	204	233	197	223	185	267			2,330
Inactive (over 59 months)	12	33	28	22	23	18	27	20	20	26			229
Total Reactivates	408	454	439	433	378	411	363	392	352	473	-	-	4,103