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State of Florida



## Public Service Commission

CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD  
TALLAHASSEE, FLORIDA 32399-0850

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**DATE:** April 8, 2004

**TO:** Director, Division of the Commission Clerk & Administrative Services (Bayó)

**FROM:** Division of Competitive Markets & Enforcement (Makin, Bulecza-Banks)  
Office of the General Counsel (Brubaker) *JB RDR*

**RE:** Docket No. 031123-GU – Petition for authority to convert and transfer all remaining sales customers to transportation service, to terminate merchant function, and for approval of certain tariff changes on experimental basis, by Sebring Gas System, Inc.

**AGENDA:** 04/20/04–Regular Agenda–Tariff Filing - Interested Persons May Participate

**CRITICAL DATES:** 60-Day Suspension Date: February 22, 2004 – Company waived 60-day suspension date to April 22, 2004

**SPECIAL INSTRUCTIONS:** None

**FILE NAME AND LOCATION:** S:\PSC\CMP\WP\031123.RCM.DOC

### Case Background

In April 2000, the Commission adopted Rule 25-7.0335, Florida Administrative Code, which requires each local distribution company (LDC) to offer the transportation of natural gas to all non-residential customers. The rule further provides that each LDC may offer the transportation of natural gas to residential customers when it is cost effective to do so.

At the time of the Commission's adoption of Rule 25-7.0335, Sebring Gas Company (Sebring or the Company) did not offer transportation service.

At present, Sebring serves approximately 900 residential and commercial customers with no large demand industrial users. Total annual system throughput varies but is less than 650,000 therms. The system's small customer base, and corresponding low overall level of usage contribute to the challenge of procuring gas at competitive prices for Sebring's customers. Given the low level of its system throughput associated with sales service, the Company believes that if

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it were to remain in the merchant function, it would find it increasingly difficult to deliver gas to its customers at competitive prices.

At the request of the Company, this recommendation was deferred from the February 17, 2004 agenda, so that the Company could send out a notice of the petition to its customers.

Sebring has concluded that the only cost effective approach available to it is to completely exit the merchant function, and require that all sales customers convert to transportation service. Customer notice has been mailed to all customers explaining Sebring's petition to transfer all sales customers to transportation, and exit the merchant function. This recommendation addresses Sebring's petition as filed on December 22, 2003, and its letter of clarification filed on January 27, 2004.

Jurisdiction over this matter is vested in the Commission by several provisions of Chapter 366, Florida Statutes, including Sections 366.03, 366.04, 366.05, 366.06, and 366.075 Florida Statutes.

### Discussion of Issues

**Issue 1:** Should the Commission approve Sebring Gas Company's petition for authority to convert all remaining sales customers to transportation service and to exit the merchant function?

**Recommendation:** Yes. The Commission should approve Sebring's petition for authority to convert all remaining sales customers to transportation service and to exit the merchant function on an experimental basis, effective April 20, 2004, the date of the Commission's vote on this matter. Further, staff recommends that Sebring be required to file a report with the Commission 90 days prior to the conclusion of the initial period of the program. The report would contain information regarding customer acceptance, an assessment of Sebring's capability to expand the program, and a determination of the feasibility of continuing the program. (MAKIN, BULECZA-BANKS)

**Staff Analysis:** The staff analysis consists of two sections. The first section addresses the provisions of the proposed tariff and the second addresses the Commission's authority to approve the tariff.

#### I. Provisions of the Proposed Tariff

Under Sebring's proposal, it would establish two transportation service programs through its tariff. The first program would revise Sebring's existing "pro-forma" transportation tariff to establish an Individual Transportation Service (ITS) Program as an option for customers using over 100,000 therms per year. Under the proposed ITS program, larger customers would be able to select a gas marketer, negotiate the terms of service and individually schedule gas deliveries to the Company's distribution system.

The second program, an Aggregated Transportation Service (ATS) tariff would be established to facilitate the conversion of the small volume sales service customers using less than 100,000 therms per year, to a single aggregated customer pool. A qualified gas marketer would be retained to administer the pool. This Pool Manager would have the capability of combining the gas supply requirements of customers in the ATS pool with other customers served by the Pool Manager, both on and off the Company's distribution system.

Sebring believes its customers' gas supply needs are best served by a gas marketer with the ability to "rebundle" the Company's small volume gas users into a diversified, state-wide customer group consisting of industrial and commercial customers with different levels of usage. The increased market power of a larger overall customer group with greater gas volume requirements, would result in a higher probability of obtaining lower gas costs than would be achieved by the decreasing sales service volumes on the Company's system alone. Sebring's approach will allow all stakeholders adequate time to develop the knowledge and experience needed for a successful transition to a fully competitive open market.

Sebring would maintain a contractual relationship with the Pool Manager throughout the transition period. The transition period has been designed to provide reliable service at reasonable prices, while gradually introducing more options and choices to a better informed customer group. The ATS tariff includes a phased-in transition period to be completed over

several years on an experimental basis and is similar to proposals by the Florida Division of Chesapeake Utilities Corporation (Chesapeake) and Indiantown Gas Company (Indiantown) previously approved by the Commission, which were approved by Commission Order Nos. PSC-02-1646-TRF-GU, issued November 25, 2002, in Docket No. 020277-GU, In re: Petition of Florida Division of Chesapeake Utilities Corporation for authority to convert all remaining sales customers to transportation service and to exit the merchant functions, and PSC-02-1655-TRF-GU, issued November 26, 2002, in Docket No. 020471-GU, In re: Petition for authority to convert all remaining sales customers to transportation service and to terminate merchant function by Indiantown Gas Company.

The implementation of the programs would be for a period where all remaining residential and non-residential sales customers would receive gas supply service through one qualified Pool Manager, selected by the Company. Sebring has an established relationship with a marketer who has purchased for Sebring its total gas supply for the past ten years. This marketer has committed to offer fuel and capacity management services under the same terms and conditions for gas supply as that obtained by Request For Proposal for the Commission-approved programs of Chesapeake and Indiantown. The ATS agreement between the Company and the Pool Manager would be structured to provide customers the opportunity to select between two pricing options: a monthly indexed price, similar to the current Purchased Gas Adjustment (PGA) pricing mechanism, or a fixed price option that enables customers to mitigate the potential price volatility of the monthly indexed price.

On January 27, 2004, Sebring filed a letter of clarification to its petition, stating that the initial program offering would be on an experimental basis for a period of two years, consistent with the Commission's decision on similar requests from Chesapeake Utilities and Indiantown Gas Company. Sebring is agreeable to providing reports and information consistent with the decisions by the Commission in those orders. Near the end of the initial two-year period, the Company would evaluate customer acceptance of the program, assess its own capabilities to expand program options, and make a determination of the feasibility and timing for continuing further. Sebring would report to the Commission on the results of the programs. After submitting the report, Sebring would have to petition the Commission for approval to continue or end the program. Staff recommends that the report should be submitted within 90 days prior to the conclusion of the initial period of the program.

The Company's proposal is carefully designed to avoid exposure of its customers to the risk of service disruption. The ATS Agreement provides for severe financial penalties and/or potential termination of the agreement in the event that the ATS Pool Manager fails to deliver gas. Sebring is prepared to act as the supplier of last resort in the case of long term problems.

The ATS Agreement would specifically define the Pool Manager's actions or omissions constituting a default, including: failure to observe the terms and conditions of the ATS Agreement; failure in performance of essential duties and obligations such as failing to deliver gas for an extended period without prior approval, force majeure, or re-relinquishing capacity outside the contract limits; engaging in price gouging, slamming or other improper or unlawful activities; and, the failure to maintain financial viability.

Sebring would implement procedures and provide the oversight necessary to ensure continuity of service to the pool customers in a default situation. If the Pool Manager defaults, the Company would act to terminate the ATS Pool Manager and, as the supplier of last resort, would recall the interstate pipeline capacity, arrange for gas supply, and perform all other necessary functions to ensure delivery to affected customers, until arrangements to qualify a replacement Pool Manager could be made. Should the company be required to provide such temporary emergency back-up service, the cost of gas charges would be allocated to customers through the Operational Balancing Account mechanism in the Company's tariff.

For the residential and non-residential customers transitioning from sales to transportation service, the Company would maintain the customer service function, maintain customer account transaction records, and provide gas supply billing and collections indefinitely. Customers would continue to receive one monthly bill, and the Pool Manager's charges would appear in lieu of the Company's purchased gas adjustment. The Company will charge the Pool Manager \$2.00 per ATS customer per month for providing such service. The Company would follow a prescribed hierarchy in applying customer payments. All payments would first be applied to any taxes and fees imposed by government; second, to Pool Manager's charges for gas supply; and third, to the Company's regulated transportation charges.

This payment hierarchy would enable the Company to retain the capability to disconnect customers for non-payment in the event of a partial payment. Applying the payment to the Pool Manager's gas supply cost prior to the Company's regulated charges would prevent customers from taking advantage of the absence of the Pool Manager's service disconnect authority by paying only the regulated charges. However, this arrangement would not provide protection to the Pool Manager in the event that the customer failed to pay at all. The Pool Manager would have the authority to appropriately secure customer accounts through cash deposits or similar means.

As the Company prepares to exit the merchant function, participation in the purchased gas cost recovery proceedings will no longer be necessary. Further, upon activation of service by the ATS Pool Manager, there would cease to be any need for the Company to have an active PGA mechanism. Whatever over or under-recovery may have accrued at that time will be reviewed by the Commission for appropriate disposition by the Company. Sebring proposes to address that matter in a subsequent filing within ninety days of the termination of its gas sales merchant function.

The Company mailed a notice to its customers on March 12, 2004 describing the new program. The customers that responded to the notice were agreeable to the program.

The Company has submitted revised tariff sheets that incorporate the changes necessary to implement transportation service to all remaining sales customers.

## II. Commission's Jurisdiction

Sebring cites section 366.075, Florida Statutes, as the Commission's authority for approving the Petition.

Staff believes that Section 366.075, Florida Statutes, grants the Commission the authority to approve experimental and transitional rates. Staff's recommendation herein is consistent with the Commission's decision in Order Nos. PSC-02-1646-TRF-GU and PSC-02-1655-TRF-GU.

III. Conclusion

Based on the Company's petition, Staff believes that Sebring's proposal to convert all remaining sales customers to transportation service and to exit the merchant function on an experimental basis is appropriate and reasonable, and should be approved. The tariff should become effective on April 20, 2004, the date of the Commission's vote on this matter.

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

**Recommendation:** Yes. If a protest is filed within 21 days of the Commission Order approving this tariff by a person whose substantial interests are affected, the tariff should remain in effect pending resolution of the protest, with any charges held subject to refund pending resolution of the protest. If no protest is filed, this docket should be closed upon the issuance of a Consummating Order. (BRUBAKER)

**Staff Analysis:** If a protest is filed within 21 days of the Commission Order approving this tariff by a person whose substantial interests are affected, the tariff should remain in effect pending resolution of the protest, with any charges held subject to refund pending resolution of the protest. If no protest is filed, this docket should be closed upon the issuance of a Consummating Order.