

Florida Public Service Commission
Fletcher Building
101 East Gaines Street
Tallahassee, Florida 32399-0850

M E M O R A N D U M

September 20, 1990

TO: DIRECTOR, DIVISION OF RECORDS AND REPORTING

FROM: DIVISION OF ELECTRIC AND GAS (FULFORD) *AMJ Jmw RIT*
DIVISION OF APPEALS (BROWN) *MCB*
DIVISION OF RESEARCH (HOPPE) *DCS*

SUBJECT: DOCKET NO. 900532-GU - PROPOSAL OF RULES 25-7.047,
25-7.0471, 25-7.0472, AND 25-7.0473, FLORIDA
ADMINISTRATIVE CODE, REGARDING TERRITORIAL AGREEMENTS
AND DISPUTES FOR NATURAL GAS UTILITIES

AGENDA: 10/02/90 - CONTROVERSIAL AGENDA - PARTIES MAY PARTICIPATE

PANEL: FULL COMMISSION

CRITICAL DATES: NONE

CASE BACKGROUND

In 1989 the Legislature explicitly recognized the Commission's inherent authority to approve territorial agreements and resolve territorial disputes among natural gas utilities. Sections 366.04 (3) and (4), Florida Statutes (1989), (Attachment A). To implement that explicit authority, and to codify existing Commission policy regarding territorial agreements and disputes, staff has drafted the proposed rules referenced above, (Attachment B). With the exception of a few relatively minor differences, these proposed rules mirror Rules 25-6.0439 - 25-6.0442, Florida Administrative Code, the territorial agreement and dispute rules that the Commission recently adopted for electric utilities.

The proposed rules include:

Rule 25-7.047 - Territorial Agreements and Disputes for Natural Gas Utilities - Definitions;

Rule 25-7.0471 - Territorial Agreements for Natural Gas Utilities;

Rule 25-7.0472 - Territorial Disputes for Natural Gas Utilities;

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Rule 25-7.0473 - Customer Participation

Each of the rules will be discussed in detail below.

ISSUE 1: Should the Commission propose new Rules 25-7.047, 25-7.0471, 25-7.0472, and 25-7.0473, which set guidelines for territorial agreements and disputes among natural gas utilities?

RECOMMENDATION: Yes, the Commission should propose these rules to implement Sections 366.04 (3) and (4), Florida Statutes, and to codify current Commission policy concerning natural gas territorial agreements and disputes.

STAFF ANALYSIS:

Rule 25-7.047 - Territorial Agreements and Disputes for Natural Gas Utilities - Definitions.

Proposed Rule 25-7.047 defines the terms "territorial agreement", "territorial dispute", and "natural gas utility", as those terms are to be used in the rules. The rule incorporates the definition of "natural gas utility" found in Section 366.04(3)(c), Florida Statutes, (1989). The definitions reflect current Commission use of those terms, and their codification will assist utilities and others in adhering to the requirements of the territorial rules.

Rule 25-7.0471 - Territorial Agreements for Natural Gas Utilities.

Proposed Rule 25-7.0471 is also largely a codification of current Commission filing requirements and practices concerning approval of territorial agreements. The rule requires that all territorial agreements shall be submitted to the Commission for approval with clear identification, by a map and written description, of the geographical area to be served by each utility. The submission must include all of the terms and conditions pertaining to the agreement and its implementation, the number and class of customers to be transferred (with assurance that the affected customers have been contacted and any difference in rates explained), and information regarding the extent to which the affected customers accept the transfer. The rule further provides that after approval of the agreement, any and all changes to the agreement must be approved by the Commission. The rule describes the type of information the Commission intends to consider in determining whether or not to approve a territorial agreement,

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including the reasonableness of the purchase price of transferred facilities, the likelihood that reliability of service will continue, and the likelihood that existing or potential uneconomic duplication of facilities will be eliminated.

Rule 25-7.0472 - Territorial Disputes for Natural Gas Utilities.

Proposed Rule 25-7.0472 sets out the requirements for initiating a territorial dispute proceeding before the Commission, and provides that on its own motion the Commission may identify the existence of a dispute and order affected parties to participate in a proceeding to resolve it.

The rule requires that each party to a territorial dispute must submit: a map and written description of the disputed area; a description of the conditions that caused the dispute; a description of the existing and planned load to be served in the disputed area, and; a description of the type, additional cost, and reliability of natural gas facilities and other utility services to be provided.

Rule 25-7.0472 reflects and further delineates the factors that Section 366.04 (3)(b), Florida Statutes states the Commission may consider in resolving territorial disputes. The factors to be considered fall into four categories: 1) the ability of each utility to provide service to the disputed area; 2) the demographic nature of the disputed area and its future requirements for utility services; 3) the cost to each utility to provide natural gas service to the disputed area, and; 4) customer preference, if all other factors considered are substantially equal. While the rule, like Section 366.04 (3)(b), states that the Commission is not limited to consideration of the factors listed, the list is quite comprehensive, and will assist utilities in preparing for territorial dispute proceedings.

Rule 25-7.0473 - Customer Participation.

Section 366.04(4), Florida Statutes, provides that any customer shall be given the opportunity to participate in proceedings before the Commission to approve territorial agreements and resolve territorial disputes. Proposed Rule 25-7.043 implements that statutory provision and provides intervention and notice procedures which protect the due process rights of the customers and the other affected parties.

The proposed territorial rules for natural gas utilities

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codify the Commission's existing policy over natural gas territorial agreements and disputes. They also implement the Commission's inherent and explicit statutory authority in this area, and they will contribute to the resolution of any questions regarding the nature and extent of that authority. The rules provide clear guidelines to utilities and other affected parties with respect to their participation in territorial agreement and dispute proceedings, and they inform affected parties of the type of facts the Commission will consider when it reviews agreements and resolves disputes. Staff recommends that these new rules be proposed for adoption. The economic impact statement (Attachment C), states that the additional costs to the utilities in adhering to the proposed rules will be minimal.

ISSUE 2: If no comments are filed and no requests for a hearing are made, should the Commission adopt the proposed rules?

RECOMMENDATION: Yes, these proposed rules should be filed for adoption if there are no comments or requests for hearing.

STAFF ANALYSIS: When the time for filing comments or requesting a hearing has run, the rules may be filed for adoption with the Secretary of State.

MCB/cp
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Attachments

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MCB/cp
0276g.cp

Attachments

(b) "Cable service" means:

1. The one-way transmission to subscribers of video programming or any other programming service; and
2. Subscriber interaction, if any, which is required for the selection of such video programming or other programming service.

(c) "Cable system" means a facility, consisting of a set of closed transmission paths and associated signal generation, reception, and control equipment that is designed to provide cable service which includes video programming and which is provided to multiple subscribers within a community, but such term does not include:

1. A facility that serves only to retransmit the television signals of one or more television broadcast stations;
2. A facility that serves only subscribers in one or more multiple-unit dwellings under common ownership, control, or management, unless such facility or facilities uses any public right-of-way;
3. A facility of a common carrier, except that such facility shall be considered a cable system to the extent such facility is used in the transmission of video programming directly to subscribers; or
4. Any facilities of any electric utility used solely for operating its electric utility systems.

(d) "Video programming" means programming provided by or generally considered comparable to programming provided by a television broadcast station or cable system.

(2) No electric utility shall make or give any preference or advantage to any person as an accommodation or inducement to that person to contract with or take the services of any entity which is an affiliate of such electric utility and which entity provides video programming to persons within all or any part of the service area of such electric utility.

(3) No electric utility shall make or give any preference or advantage over any entity which is not an affiliate of such electric utility, and which entity provides video programming to persons within all or any part of the service area of such electric utility, to any entity which is an affiliate of such electric utility and which entity provides video programming to persons within all or any part of the service area of such electric utility.

(4) Upon a finding by a court of competent jurisdiction that either any electric utility or its affiliate providing video programming services within all or any part of the service area of the electric utility has violated the provisions of this section, the court:

(a) May award actual damages to any other entity not an affiliate of the electric utility providing video programming services to persons within all or any part of the service area of the electric utility, and may grant injunctive relief.

(b) Shall award costs of any action, together with reasonable attorney's fees, to the prevailing party.

History.—s. 4, ch. 87-266; s. 22, ch. 89-292.
Note.—Repealed effective October 1, 1999, by s. 22, ch. 89-292, and scheduled for review pursuant to s. 11.61.

366.04 Jurisdiction of commission.—

(1) In addition to its existing functions, the commission shall have jurisdiction to regulate and supervise each public utility with respect to its rates and service;

assumption by it of liabilities or obligations as guarantor, endorser, or surety; and the issuance and sale of its securities, except a security which is a note or draft maturing not more than 1 year after the date of such issuance and sale and aggregating (together with all other then-outstanding notes and drafts of a maturity of 1 year or less on which such public utility is liable) not more than 5 percent of the par value of the other securities of the public utility then outstanding. In the case of securities having no par value, the par value for the purpose of this section shall be the fair market value as of the date of issue. The commission, upon application by a public utility, may authorize the utility to issue and sell securities of one or more offerings, or of one or more types, over a period of up to 12 months; or, if the securities are notes or drafts maturing not more than 1 year after the date of issuance and sale, the commission, upon such application, may authorize the utility to issue and sell such securities over a period of up to 24 months. The commission may take final action to grant an application by a public utility to issue and sell securities or to assume liabilities or obligations after having given notice in the Florida Administrative Weekly published at least 7 days in advance of final agency action. In taking final action on such application, the commission may deny authorization for the issuance or sale of a security or assumption of a liability or obligation if the security, liability, or obligation is for nonutility purposes; and shall deny authorization for the issuance or sale of a security or assumption of a liability or obligation if the financial viability of the public utility is adversely affected such that the public utility's ability to provide reasonable service at reasonable rates is jeopardized. Securities issued by a public utility or liabilities or obligations assumed by a public utility as guarantor, endorser, or surety pursuant to an order of the commission, which order is certified by the clerk of the commission and which order approves or authorizes the issuance and sale of such securities or the assumption of such liabilities or obligations, shall not be invalidated by a modification, repeal, or amendment to that order or by a supplemental order; however, the commission's approval of the issuance of securities or the assumption of liabilities or obligations shall constitute approval only as to the legality of the issue or assumption, and in no way shall it be considered commission approval of the rates, service, accounts, valuation, estimates, or determinations of cost or any other such matter. The jurisdiction conferred upon the commission shall be exclusive and superior to that of all other boards, agencies, political subdivisions, municipalities, towns, villages, or counties, and, in case of conflict therewith, all lawful acts, orders, rules, and regulations of the commission shall in each instance prevail.

(2) In the exercise of its jurisdiction, the commission shall have power over electric utilities for the following purposes:

(a) To prescribe uniform systems and classifications of accounts.

(b) To prescribe a rate structure for all electric utilities.

(c) To require electric power conservation and reliability within a coordinated grid, for operational as well as emergency purposes.

To approve territorial agreements between and among rural electric cooperatives, municipal electric utilities, and other electric utilities under its jurisdiction. However, nothing in this chapter shall be construed to alter existing territorial agreements as between the parties to such agreements.

To resolve, upon petition of a utility or on its own behalf, any territorial dispute involving service areas between and among rural electric cooperatives, municipal electric utilities, and other electric utilities under its jurisdiction. In resolving territorial disputes, the commission may consider, but not be limited to consideration of, the ability of the utilities to expand services within their own capabilities and the nature of the area involved, including population, the degree of urbanization of the area, its proximity to other urban areas, and the present and reasonably foreseeable future requirements of the area for other utility services.

To prescribe and require the filing of periodic reports and other data as may be reasonably available and necessary to exercise its jurisdiction hereunder.

Nothing in this chapter shall be construed or applied to impede, prevent, or prohibit any municipally owned electric utility system from distributing at retail rates electrical energy within its corporate limits, as such corporate limits exist on July 1, 1974; however, existing territorial agreements shall not be altered or abridged here-

In the exercise of its jurisdiction, the commission shall have the authority over natural gas utilities for the following purposes:

To approve territorial agreements between and among natural gas utilities. However, nothing in this chapter shall be construed to alter existing territorial agreements between the parties to such agreements.

To resolve, upon petition of a utility or on its own behalf, any territorial dispute involving service areas between and among natural gas utilities. In resolving territorial disputes, the commission may consider, but not be limited to consideration of, the ability of the utilities to expand services within their own capabilities and the nature of the area involved, including population, the degree of urbanization of the area, its proximity to other urban areas, and the present and reasonably foreseeable future requirements of the area for other utility services.

For purposes of this subsection, "natural gas utilities" means any utility which supplies natural gas or manufactured gas or liquefied gas with air admixture, or similar gaseous substance by pipeline, to or for the public. It includes gas public utilities, gas districts, and natural gas utilities or municipalities or agencies thereof.

Any customer shall be given an opportunity to present oral or written communications in commission proceedings to approve territorial agreements or resolve territorial disputes. If the commission proposes to consider such material, then all parties shall be given an opportunity to cross-examine or challenge or rebut it. Any adversely affected customer shall have the right to intervene in such proceedings.

The commission shall further have jurisdiction over the planning, development, and maintenance of a statewide electric power grid throughout Florida to as-

sure an adequate and reliable source of energy for operational and emergency purposes in Florida and the avoidance of further uneconomic duplication of generation, transmission, and distribution facilities.

(6) The commission shall further have exclusive jurisdiction to prescribe and enforce safety standards for transmission and distribution facilities of all public electric utilities, cooperatives organized under the Rural Electric Cooperative Law, and electric utilities owned and operated by municipalities. In adopting safety standards, the commission shall:

(a) Adopt the 1984 edition of the National Electrical Safety Code (ANSI C2) as initial standards; and

(b) Adopt, after review, any new edition of the National Electrical Safety Code (ANSI C2).

The standards prescribed by the current 1984 edition of the National Electrical Safety Code (ANSI C2) shall constitute acceptable and adequate requirements for the protection of the safety of the public, and compliance with the minimum requirements of that code shall constitute good engineering practice by the utilities. The administrative authority referred to in the 1984 edition of the National Electrical Safety Code is the commission. However, nothing herein shall be construed as superseding, repealing, or amending the provisions of s. 403.523(1) and (14).

(7)(a) By July 1, 1990, the commission shall make a determination as to the cost-effectiveness of requiring the installation of underground electric utility distribution and transmission facilities for all new construction, and for the conversion of overhead distribution and transmission facilities to underground distribution and transmission facilities when such facilities are replaced or relocated. In making such determination the commission shall consider the total cost involved including, but not limited to, the overall cost of accidental electrocutions and temporary and permanent disabilities to both the utility employees and others; vehicular accidents involving distribution and transmission facilities; ascertainable and measurable costs of adverse health effects; the differential between the rights-of-way required for underground versus overhead utilities; the cost differential due to the elimination of tree-trimming requirements; the cost differentials between underground and overhead utilities to be expected from repairing storm damage, as well as the incurred loss to the private sector as a result of outages due to storm damage; and costs of associated insurance, attorney's fees, and legal settlements and costs. Further, in making its determination, the commission shall survey the experiences of other states and utilities operating outside of Florida with respect to the cost-effectiveness of underground utilities. Upon a finding by the commission that the installation of underground distribution and transmission facilities is cost-effective, the commission shall require electric utilities, where feasible, to install such facilities.

(b) The commission shall, by July 1, 1990, make a determination as to the cost-effectiveness of converting existing overhead electric distribution and transmission facilities to underground facilities. In making this determination, the commission shall consider the factors specified in paragraph (a) and the original cost, depreci-

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2 25-7.047 Territorial Agreements and Disputes for Natural Gas
3 Utilities - Definitions.

4 (1) For the purpose of Rules 25-7.0471, 25-7.0472 and
5 25-7.0473 the following terms shall have the following meaning:

6 (a) "territorial agreement" means a written agreement between
7 two or more natural gas utilities which identifies the
8 geographical areas to be served by each natural gas utility party
9 to the agreement, the terms and conditions pertaining to
10 implementaion of the agreement, and any other terms and conditions
11 pertinent to the agreement;

12 (b) "territorial dispute" means a disagreement as to which
13 utility has the right and the obligation to serve a particular
14 geographical area.

15 (c) "Natural Gas Utility" will be defined as the term is
16 defined in section 366.04(3)(c), Florida Statutes, 1989.

17 Specific Authority: 366.04(3)(a)(b)(c)(4), Florida Statutes.

18 Law Implemented: 366.04, Florida Statutes.

19 History: New.
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struck-through type are deletions from existing law.

1 25-7.0471 Territorial Agreements for Natural Gas Utilities.

2 (1) All territorial agreements between natural gas utilities
3 shall be submitted to the Commission for approval. Each
4 territorial agreement shall clearly identify the geographical area
5 to be served by each utility. The submission shall include:

6 (a) a map and a written description of the area;

7 (b) the terms and conditions pertaining to implementation of
8 the agreement, and any other terms and conditions pertaining to
9 the agreement;

10 (c) the number and class of customers to be transferred;

11 (d) assurance that the affected customers have been contacted
12 and the difference in rates explained, and

13 (e) information with respect to the degree of acceptance by
14 affected customers, i.e., the number in favor and those opposed to
15 the transfer. Upon approval of the agreement, any modification,
16 changes, or corrections to this agreement must be approved by this
17 Commission.

18 (2) Standards for Approval. In approving territorial
19 agreements, the Commission may consider, but not be limited to
20 consideration of:

21 (a) the reasonableness of the purchase price of any facilities
22 being transferred;

23 (b) the reasonable likelihood that the agreement, in and of
24 itself, will not cause a decrease in the reliability of natural
25 gas service to the existing or future ratepayers of any utility
party to the agreement; and

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1 (c) the reasonable likelihood that the agreement will
2 eliminate existing or potential uneconomic duplication of
3 facilities.

4 (3) The Commission may require additional relevant information
5 from the parties of the agreement, if so warranted.

6 Specific Authority: 366.04(3)(a)(b)(c)(4), Florida Statutes.

7 Law Implemented: 366.04, Florida Statutes.

8 History: New
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2 25-7.0472 Territorial Disputes for Natural Gas Utilities.

3 (1) A territorial dispute proceeding may be initiated by a
4 petition from a natural gas utility, requesting the Commission to
5 resolve the dispute. Additionally the Commission may, on its own
6 motion, identify the existence of a dispute and order the affected
7 parties to participate in a proceeding to resolve it. Each
8 utility which is a party to a territorial dispute shall provide a
9 map and written description of the disputed area along with the
10 conditions that caused the dispute. Each utility party shall also
11 provide a description of the existing and planned load to be
12 served in the area of dispute and a description of the type,
13 additioanl cost, and reliability of natural gas facilities and
14 other utility services to be provided within the disputed area.

15 (2) In resolving territorial disputes, the Commission may
16 consider, but is not limited to consideration of:

17 (a) The capability of each utility to provide reliable
18 natural gas service within the disputed area with its existing
19 facilities and gas supply contracts and the extent to which
20 additional facilities are needed;

21 (b) The nature of the disputed area including population and
22 the type of utilities seeking to serve it, and degree of
23 urbanization of the area and its proximity to other urban areas,
24 and the present and reasonably foreseeable future requirements of
25 the area for other utility services;

(c) The cost of each utility to provide natural gas service

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2 to the disputed area presently and in the future, which includes
3 but is not limited to the following:

- 4 1. Cost of obtaining rights-of-way and permits.
5 2. Cost of capital.
6 3. Amortization and depreciation.
7 4. Labor; rate per hour and estimated time to perform
8 each task.
9 5. Mains and pipe; the cost per foot and the number of
10 feet required to complete the job.
11 6. Cost of meters, gauges, house regulators, valves,
12 cocks, fittings, etc., needed to complete the job.
13 7. Cost of field compressor station structures and
14 measuring and regulating station structures.
15 8. Cost of gas contracts for system supply; and

16 (d) customer preference if all other factors are substantially
17 equal.

18 (3) The Commission may require additional relevant
19 information from the parties of the dispute if so warranted.

20 Specific Authority: 366.04(3)(a)(b)(c)(4), Florida Statutes.

21 Law Implemented: 366.04, Florida Statutes

22 History: New.
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1 25-7.0473 Customer Participation.

2 (1) Any customer located within the geographic area in
3 question shall have an opportunity to present oral or written
4 communications in Commission proceedings to approve territorial
5 agreements or resolve territorial disputes. If the Commission
6 proposes to consider such material, then all parties shall be
7 given a reasonable opportunity to cross-examine or challenge or
8 rebut it.

9 (2) Any substantially affected customer shall have the right
10 to intervene in such proceedings.

11 (3) In any Commission proceeding to approve a territorial
12 agreement or resolve a territorial dispute, the Commission shall
13 give notice of the proceeding in the manner provided by Rule
14 25-22.0405, Florida Administrative Code.

15 Specific Authority: 366.04(3)(a)(b)(c)(4), Florida Statutes

16 Law Implemented: 366.04, Florida Statutes

17 History: New.
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M E M O R A N D U M

August 27, 1990

TO: DIVISION OF APPEALS (BROWN)

FROM: DIVISION OF RESEARCH (HOPPE) *OMA* *YMB*

SUBJECT: ECONOMIC IMPACT STATEMENT FOR DOCKET NO. 900532-GU, PROPOSAL OF RULES 25-7.047, 25-7.0471, 25-7.0472, AND 25-7.0473, FAC, REGARDING TERRITORIAL AGREEMENTS AND DISPUTES FOR NATURAL GAS UTILITIES

SUMMARY OF THE RULE

The proposed rules implement the current statutory requirements for the Florida Public Service Commission (FPSC) to exercise jurisdictional authority in approving territorial agreements and resolving territorial disputes for natural gas utilities (Section 366.04(3),(4), FS 1989). For the purposes of implementing this authority, the statutory definition of a natural gas utility "includes gas public utilities, gas districts, and natural gas utilities, or municipalities or agencies thereof."

Specifically, proposed Rule 25-7.047, FAC, Territorial Agreements and Disputes for Natural Gas Utilities - Definitions, provides the definition of terms to be used in Rules 25-7.0471 through 25-7.0473.

Proposed Rule 25-7.0471, Territorial Agreements for Natural Gas Utilities, requires all territorial agreements between natural gas utilities to be approved by the Commission and details the filing requirements. In addition, the rule specifies the standards which the Commission will use in approving these agreements.

Proposed Rule 25-7.0472, Territorial Disputes for Natural Gas Utilities, provides for the petitioning of the Commission by a natural gas utility for resolution of a territorial dispute. In addition, the Commission, on its own motion, may initiate proceedings for resolution of identified territorial disputes. The rule provides for the associated filing requirements and specifies the issues which the Commission will consider in resolving these disputes.

Proposed Rule 25-7.0473, Customer Participation, implements the specific statutory requirements allowing affected customers the opportunity to participate in a territorial agreement or dispute proceeding (Section 366.04(4), FS 1989) and requires proper Commission notice of such a proceeding.

DIRECT COSTS TO THE AGENCY

Compliance with the proposed rules would result in minimal additional workload for the Commission. The additional workload is associated with the review requirements of all agreements and disputes and the notification, by the Commission, of resulting proceedings. However, because of the infrequent occurrence of territorial agreements and disputes in the natural gas industry, the additional workload can be absorbed by the current staff and minimal additional costs would be incurred.

The Commission has participated in all three of the identified territorial disputes between investor-owned natural gas utilities (IOUs) for the past ten years. Therefore the proposed rule simply codifies existing practice of FPSC resolution when IOUs are involved in a territorial dispute. No other disputes have been identified for the past ten years. Eight territorial agreements have been identified for the past ten years. Additional time

associated with review and notification is not quantifiable, however, due to the infrequent occurrence of such agreements, the impact appears to be immaterial.

COSTS AND BENEFITS TO THOSE PARTIES DIRECTLY AFFECTED BY THE RULE

Summary. Survey responses indicated that increases in utility costs associated with implementing these rules would be minimal and infrequent in nature. Twenty-three gas utilities responded to the data request. Only eleven territorial disputes/agreements were identified for the past ten years. No additional costs were identified for disputes between investor-owned gas utilities, because current practice is to use Commission participation in resolution of these disputes. Other types of territorial disputes (e.g., IOU vs. non-IOU) would have to be resolved in some manner. Indications are that the additional costs associated with resolution of these disputes before the Commission are minimal and, in some instances, an FPSC proceeding may be less costly.

There are additional costs associated with the statutory requirement of Commission approval for territorial agreements. However, the infrequency of such agreements as highlighted by the survey, and the immateriality of these additional costs when compared to total operating costs, would tend to minimize any impact on a utility.

The Investor-Owned Natural Gas Utilities. To assess the impact of the proposed rules, all the investor-owned natural gas utilities (IOUs) were surveyed. Eight IOUs responded to this survey. All eight utilities indicated that the additional costs associated with implementation of these rules would be on a per occurrence basis and would have minimal impact on the utilities.

Additional costs associated with petitions regarding territorial

disputes are difficult to quantify. Indications are that because territorial disputes are historically resolved through FPSC intervention, additional costs attributable to FPSC dispute resolution may not exist. In addition, the occurrence of disputes is infrequent and the total costs associated with such disputes have not been significant when compared to overall utility costs of operation.

In the past ten years only three territorial disputes, all resolved with FPSC intervention, were identified by responding utilities. One utility, Florida Public Utilities (FPUC), estimated the total cost of settling territorial disputes to be between \$500-\$1,000 per occurrence, with additional costs to be incurred for hearings outside their service territory. The other seven IOUs responding to the survey either did not quantify a dollar amount or indicated "none" or no significant costs. Two respondents indicated the potential for cost savings associated with the proposed rule due to FPSC establishment of a clear framework for dispute resolution, thereby avoiding the possibility of another potentially more costly jurisdiction resolving such disputes. This would particularly be true in the case of a dispute between an IOU and a non-IOU gas utility.

There would be increased costs associated with the statutory requirement of the filing of territorial agreements with the FPSC. FPUC estimated the total cost of filing territorial agreements with the Commission to be \$500-\$1,000. The other utilities did not quantify these costs but indicated they would vary on a case-by-case basis. However, the impact of this requirement is minimal due to the infrequent occurrence of such agreements.

The major territorial agreements in the past ten years, identified by the responding IOUs, resulted from resolutions of disputes brought before the

FPSC. The only other reported agreements, were two franchise agreements that South Florida Natural Gas Company identified.

No additional quantifiable costs were identified in association with customer participation. However, if any costs did exist, they would vary based on the size of the service area in dispute/agreement. The rule provides for the FPSC, not the utilities, to give proper notice of a proceeding approving territorial agreements or resolving territorial disputes. Therefore additional costs associated with notification may not affect the utilities involved.

Non-Investor-Owned Natural Gas Utilities. All of the municipal gas utilities, special gas districts, intrastate transmission companies, and housing authorities listed in the FPSC Directory of Utilities were surveyed. Fifteen responses were received.

There were no territorial disputes identified. The responding municipal gas utilities indicated they are the only companies operating within their city corporate limits and therefore have had no territorial disputes and that any additional costs associated with this rule would be "negligible" or nonexistent. The City of Quincy did indicate that "regulation costs money," but did not quantify any additional costs.

No additional costs were quantified in association with FPSC approval of territorial agreements. Six agreements in the past ten years were identified by the responding utilities. Most respondents indicated the additional costs would be "negligible" or nonexistent. The exception was Lake Apopka Natural Gas District. They did not quantify any dollar costs, but indicated substantial increases in staff, consulting, and legal expenses. However, Lake Apopka Natural Gas District indicated it has had only five territorial agreements in the last ten years.

Based on the infrequency of territorial agreements and the general agreement by respondents that the costs would be immaterial, the cost impact of this rule on noninvestor-owned natural gas utilities appears to be minimal.

IMPACT ON SMALL BUSINESSES

None of the respondents to the data request are small businesses subject to Chapter 120 FS requirements. One IOU, Indiantown Gas Company, Inc., qualifies as a small business. This rule is not expected to adversely affect small businesses because of the minimal costs identified with compliance and the infrequent occurrence of territorial agreements/disputes.

IMPACT ON COMPETITION

Compliance with the proposed rules would impose some additional costs on the utilities, particularly with the requirement to file territorial agreements with the FPSC. However, these costs are minimal and infrequent in occurrence. Therefore it is unlikely that these costs will have a noticeable effect on the ability of a utility to compete with alternative sources or erode the financial viability of the utility.

In the long run, compliance with the proposed rules may result in cost savings to the natural gas industry as uneconomic duplication of facilities is avoided and a streamlined framework for settlement of future disputes is established.

IMPACT ON EMPLOYMENT

Compliance with the proposed rules is not expected to have any significant impact on employment in the natural gas industry or on Florida's

general economy. The minimal estimates of additional costs of compliance combined with the infrequent occurrence of territorial agreements/disputes, make it unlikely that employment would be impacted significantly.

METHODOLOGY

Data requests were mailed to all five investor-owned electric utilities. General information concerning natural gas territorial agreements/disputes was obtained from the Bureau of Natural Gas, Division of Electric and Gas. Standard microeconomic theory was used to assess the effects on employment and competition.

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