

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for approval of existing firm and interruptible system transportation rates by Five Flags Pipe Line Company.

DOCKET NO. 970361-GP  
ORDER NO. PSC-97-0609-FOF-GP  
ISSUED: May 28, 1997

The following Commissioners participated in the disposition of this matter:

JULIA L. JOHNSON, Chairman  
SUSAN F. CLARK  
J. TERRY DEASON  
JOE GARCIA  
DIANE K. KIESLING

ORDER APPROVING RATES FOR FIVE FLAGS PIPE LINE COMPANY

BY THE COMMISSION:

Five Flags Pipe Line Company (Five Flags) is a wholly owned subsidiary of Koch Industries, Inc. Five Flags' pipeline was originally constructed in 1972 and expanded in 1974. The pipeline operates solely within the State of Florida and is a natural gas transmission company within the meaning of Chapter 368.105, Florida Statutes.

Currently, Five Flags provides natural gas transportation service to one customer, Okaloosa County Gas District (Okaloosa). Okaloosa serves customers in Santa Rosa and Escambia Counties, and is regulated by this Commission for safety only.

Prior to the implementation of the Natural Gas Transmission Pipeline Intrastate Regulatory Act, Chapter 368, Florida Statutes, Five Flags was regulated under the jurisdiction of the FERC as an intrastate natural gas transmission pipeline. Accordingly, its rates and charges were approved by the FERC. With the implementation of the Natural Gas Transmission Pipeline Intrastate Regulatory Act, Five Flags became regulated under the jurisdiction of this Commission.

On September 20, 1993, Five Flags filed with this Commission its petition for approval of initial rates, which were previously approved by the FERC. On November 18, 1993, we issued Order No. PSC-93-1677-FOF-GP, approving Five Flags initial regulated rates. On January 5, 1994, Five Flags filed with the FERC a petition requesting that it be allowed to employ rates on file with this

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Commission for transportation on behalf of interstate pipeline companies and/or local distribution companies served by interstate pipeline companies.

On May 31, 1994, the FERC approved Five Flags' petition and granted an adjustment which permits Five Flags to use rates that are not greater than those approved by this Commission. As a condition of the May 31, 1994, FERC order, Five Flags must file to obtain a new cost-based determination from us at least once every three years and file with the FERC a copy of any applicable order of this Commission no later than 30 days after issuance.

Through its petition, Five Flags requests that we approve the existing negotiated rates reflected in its contract with Okaloosa. As part of its 1993 filing in Docket No. 930721-GP, Five Flags and Okaloosa filed joint affidavits affirming that neither the pipeline nor the customer had an unfair advantage during their contract negotiations and that competition existed in the markets in which Five Flags operated. Section 368.105(3), Florida Statutes, provides that:

Rates charged or offered to be charged by any natural gas transmission company for transactions with other natural gas transmission companies, transportation customers, and industrial, power plant, and other similar large-volume contract customers, but excluding direct sales-for-resale to gas distribution utilities at city gates, unless suspended and modified pursuant to this subsection, are deemed to be just and reasonable and approved by the commission, if both the natural gas transmission company and the customer files an affidavit with the commission that:

- (a) Neither the natural gas transmission company nor the customer had an unfair advantage during the negotiations;
- (b) The rates are substantially the same as rates between the natural gas transmission company and two or more of those customers under the same or similar conditions of service; or
- (c) Competition does or did exist either with another natural gas transmission company, another supplier of natural gas, or with a supplier of an alternative form of energy.

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Five Flags states in its petition that, since the time of its 1993 filing with us, there has been no change to the contract for which it seeks rate approval. Five Flags also states that the affidavits provided with its 1993 filing still adequately represent that neither the company nor the customer had an unfair advantage during the negotiations and that competition existed in the markets in which Five Flags operated. Because a joint affidavit has been filed on the individually negotiated rates, we grant Five Flags' petition and approve Five Flags' existing firm and interruptible system transportation rates.

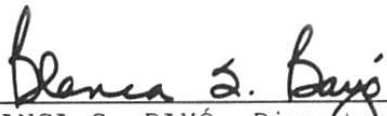
Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that the petition of Five Flags Pipe Line Company for approval of existing firm and interruptible system transportation rates is granted. It is further

ORDERED that if a protest is filed in accordance with the requirements set forth below, the rates approved by this Order shall remain in effect, and any increase in revenues shall be held subject to refund pending resolution of the protest. It is further

ORDERED that if no protest is filed in accordance with the requirements set forth below, this docket shall be closed.

By ORDER of the Florida Public Service Commission, this 28th day of May, 1997.

  
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BLANCA S. BAYÓ, Director  
Division of Records and Reporting

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NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

The Commission's decision on this tariff is interim in nature and will become final, unless a person whose substantial interests are affected by the action proposed files a petition for a formal proceeding, as provided by Rule 25-22.036(4), Florida Administrative Code, in the form provided by Rule 25-22.036(7)(a)(d) and (e), Florida Administrative Code. This petition must be received by the Director, Division of Records and Reporting, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on June 18, 1997.

In the absence of such a petition, this Order shall become final on the day subsequent to the above date.

Any objection or protest filed in this docket before the issuance date of this order is considered abandoned unless it satisfies the foregoing conditions and is renewed within the specified protest period.

If this Order becomes final on the date described above, any party adversely affected may request judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or by the First District Court of Appeal in the case of a water or wastewater utility by filing a notice of appeal with the Director, Division of Records and Reporting and filing a copy of the notice of appeal and the filing fee with the appropriate court. This filing must be completed within thirty (30) days of the date this Order becomes final, pursuant to Rule 9.110, Florida Rules of Appellate Procedure. The notice of appeal must be in the form specified in Rule 9.900(a), Florida Rules of Appellate Procedure.