

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Proposed adoption of Rule
25-7.072, F.A.C., Codes of
Conduct.

DOCKET NO. 011368-GU
ORDER NO. PSC-02-0257-NOR-GU
ISSUED: February 28, 2002

The following Commissioners participated in the disposition of this matter:

LILA A. JABER, Chairman
J. TERRY DEASON
BRAULIO L. BAEZ
MICHAEL A. PALECKI
RUDOLPH "RUDY" BRADLEY

NOTICE OF RULEMAKING

NOTICE is hereby given that the Florida Public Service Commission, pursuant to Section 120.54, Florida Statutes, has initiated rulemaking to adopt new Rule 25-7.072, Florida Administrative Code, relating to code of conduct.

The attached Notice of Rulemaking will appear in the March 8, 2002 edition of the Florida Administrative Weekly.

If timely requested, a hearing will be held at the following time and place:

Florida Public Service Commission
9:30 a.m., Thursday, April 4, 2002
Betty Easley Conference Center
Room 152, 4075 Esplanade Way
Tallahassee, Florida

Written requests for hearing and written comments or suggestions on the rule must be received by the Director, Division of the Commission Clerk and Administrative Services, Florida Public Service Commission, 2540 Shumard Oak Blvd., Tallahassee, FL 32399-0862, no later than March 29, 2002.

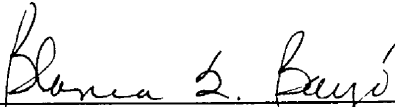
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FPSC-COMMISSION CLERK

ORDER NO. PSC-02-0257-NOR-GU
DOCKET NO. 011368-GU
PAGE 2

By ORDER of the Florida Public Service Commission, this 28th
day of February, 2002.



BLANCA S. BAYÓ, Director
Division of the Commission Clerk
and Administrative Services

(S E A L)

RCB

ORDER NO. PSC-02-0257-NOR-GU
DOCKET NO. 011368-GU
PAGE 3

NOTICE OF PROPOSED RULEMAKING

FLORIDA PUBLIC SERVICE COMMISSION

DOCKET NO. 011368-GU

RULE TITLE:	RULE NO.:
Code of Conduct	25-7.072

PURPOSE AND EFFECT: The purpose and effect of the rule is to prevent cross-subsidization by natural gas utilities of their unregulated marketing affiliates to avoid giving them an unfair advantage over competitors.

SUMMARY: The rule defines marketing affiliate as an unregulated subsidiary of a gas utility that sells gas to a transportation customer on the gas utility's system. The rule requires that tariff provisions be applied in the same manner to affiliated and non-affiliated marketers, including as to transportation or curtailment priority matters. Non-public information is not to be shared with affiliates unless made available contemporaneously to non-affiliate market participants. The rule prohibits sharing of employees directly responsible for gas transportation operations of the utility with the marketing affiliate and requires that the marketing affiliate be charged fully allocated costs for services provided by the utility. The rule further requires that there be no

tying of discounts for transportation to participation of an affiliate, no preferences toward affiliates regarding temporarily available gas or capacity, separate books and records from the affiliate and no affirmative promotion or advertising of the relationship between the utility and affiliate for the purpose of soliciting subscribership.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: The Statement of Estimated Regulatory Costs (SERC) summarizes the rule, and estimates that 8 natural gas utilities and an unknown number of affiliates are affected. The SERC finds that ratepayers will benefit if the rule prevents cross-subsidization. The SERC states that neither the PSC nor other state agencies will experience costs other than those involved in rule promulgation. Peoples Gas estimated that costs from the rule would be immaterial. Central Florida Gas estimated the cost of an additional employee, furniture, and relocation of existing employees to total \$85,500. City Gas noted a variety of costs without specifying amounts. Small businesses, small cities and small counties might benefit to the extent they are customers of a natural gas utility or a competitor of an affiliate.

ORDER NO. PSC-02-0257-NOR-GU
DOCKET NO. 011368-GU
PAGE 5

Any person who wishes to provide information regarding the statement of estimated regulatory costs, or to provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

SPECIFIC AUTHORITY: 350.127(2), 366.05(1), F.S.

LAW IMPLEMENTED: 366.05(1), F.S.

WRITTEN COMMENTS OR SUGGESTIONS ON THE PROPOSED RULE MAY BE SUBMITTED TO THE FPSC, DIVISION OF THE COMMISSION CLERK AND ADMINISTRATIVE SERVICES, WITHIN 21 DAYS OF THE DATE OF THIS NOTICE FOR INCLUSION IN THE RECORD OF THE PROCEEDING.

A HEARING WILL BE HELD AT THE TIME, DATE, AND PLACE SHOWN BELOW:

TIME AND DATE: 9:30 a.m., Thursday, April 4, 2002

PLACE: Room 152, Betty Easley Conference Center, 4075 Esplanade Way, Tallahassee, Florida.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Director of Appeals, Florida Public Service Commission, 2540 Shumard Oak Blvd., Tallahassee, Florida 32399-0862, (850) 413-6245.

THE FULL TEXT OF THE PROPOSED RULE IS:

25-7.072 CODE OF CONDUCT

(1) Definition. Marketing Affiliate means an unregulated business entity that is a subsidiary of a gas utility or is owned by or

subject to control by the gas utility's parent company, and sells gas at the retail level to a transportation customer on the gas utility's system.

(2) Application of Tariff Provisions. A gas utility will apply tariff provisions relating to gas transportation service in the same manner to similarly situated marketers, brokers, or agents, whether or not they are affiliated with the gas utility. In addition, a gas utility:

(a) will not, through a tariff provision or otherwise, give its Marketing Affiliate or its Marketing Affiliate's customers, preference over non-affiliated marketers or their customers in matters relating to gas transportation or curtailment priority, specifically including the manner and timing of the processing of requests for transportation service;

(b) will not disclose, or cause to be disclosed, to any marketer, broker or agent,

1. previously non-public information about a customer without that customer's prior authorization, or

2. previously non-public information the gas utility receives through its processing of requests for or provision of transportation service, unless such

information is contemporaneously made available to similarly situated market participants;

(c) will not share with its Marketing Affiliate any of its employees having direct responsibility for the day-to-day operations of a gas utility's transportation operations, including employees involved in:

1. receiving transportation service requests or tariff sales requests from customers (customer service inquiry employees);

2. scheduling gas deliveries on the gas utility's system;

3. making gas scheduling or allocation decisions;

4. purchasing gas or capacity; or

5. selling gas to end users behind the city gate, and

such employees will be physically separated from the gas utility's Marketing Affiliate.

(d) will charge the Marketing Affiliate the fully allocated costs for any general and administrative and support services provided to Marketing Affiliate.

(e) will not condition or tie an offer or agreement to provide a transportation discount to a customer to a requirement that the gas utility's Marketing Affiliate is involved in the transaction.

(f) will not give preference to its Marketing Affiliate regarding temporarily available gas or capacity, but will make temporarily available gas or capacity available to all similarly situated market participants;

(g) will maintain its books and records separately from those of its Marketing Affiliate; and

(h) may not affirmatively promote or advertise its affiliate's relationship with the utility for the purpose of soliciting subscribership.

NAME OF PERSON ORIGINATING PROPOSED RULE: Wayne Makin

NAME OF SUPERVISOR OR PERSONS WHO APPROVED THE PROPOSED RULE:
Florida Public Service Commission.

DATE PROPOSED RULE APPROVED: February 19, 2002

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: Volume
27, Number 30, July 27, 2001

If any person decides to appeal any decision of the Commission with respect to any matter considered at the rulemaking hearing, if held, a record of the hearing is necessary. The appellant must ensure that a verbatim record, including testimony and evidence forming the basis of the appeal is made. The Commission usually makes a verbatim record of rulemaking hearings.

ORDER NO. PSC-02-0257-NOR-GU
DOCKET NO. 011368-GU
PAGE 9

Any person requiring some accommodation at this hearing because of a physical impairment should call the Division of the Commission Clerk and Administrative Services at (850) 413-6770 at least 48 hours prior to the hearing. Any person who is hearing or speech impaired should contact the Florida Public Service Commission by using the Florida Relay Service, which can be reached at: 1-800-955-8771 (TDD).