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Public Service Commission

January 25, 2013

RECEIVED-FPSC
13 JAN 25 AM 8:30
COMMUNICATIONS SECTION

Kenneth J. Plante, Coordinator
Joint Administrative Procedures Committee
Room 680, Pepper Building
111 W. Madison Street
Tallahassee, FL 32399-1400

VIA HAND DELIVERY

Re: Docket No. 120068-GU; Rule 25-12.045, F.A.C.

Dear Mr. Plante:

Enclosed are the following materials concerning the above referenced proposed rule:

1. A copy of the proposed rule.
2. A copy of the F.A.R. notice.
3. A statement of facts and circumstances justifying the proposed rule.
4. A federal standards statement.
5. Statement of Estimated Regulatory Costs for the rule.

If there are any questions with respect to this rule, please do not hesitate to call me at 413-6216.

Sincerely,

Kathryn G.W. Cowdery
Senior Attorney

Enclosures
cc: Office of Commission Clerk

DOCUMENT NUMBER - DATE
00452 JAN 25 2013
FPSC-COMMISSION CLERK

1 **25-12.045 Inactive Gas Service Lines.**

2 (1) An operator shall take ~~The following actions shall be taken~~ for inactive gas service
3 lines that have been used, but have become inactive without reuse:

4 (a) An operator shall take immediate action to protect persons and property if it
5 determines that an inactive service line is an existing or probable hazard to persons or
6 property, and shall retire and physically abandon said line within three months of that
7 determination.

8 (b) If the operator determines that there is no prospect for reuse, the service line shall
9 be retired and physically abandoned within three months of that determination.

10 (c) Annual risk assessments shall be made for all service lines that have been inactive
11 for more than one year.

12 1. The annual risk assessments shall identify potential threats and shall rank risks using
13 the operator's Distribution Integrity Management Plan developed pursuant to 49 C.F.R. 192,
14 Subpart P (2011) which is incorporated by reference in Rule 25-12.005, F.A.C. The annual
15 risk assessments shall include the following required elements of the operator's Distribution
16 Integrity Management Plan in identifying threats: Presence of excess flow valves, incident
17 and leak history, corrosion control records, continuing surveillance records, patrolling records,
18 maintenance history, excavation damage experience, and any other data deemed relevant by
19 the operator.

20 2. The annual risk assessments records shall be maintained by the operator for at least
21 10 years.

22 3. Inactive service lines that are identified in the annual risk assessments as potential
23 threats with a high-risk ranking shall be retired and physically abandoned within six months
24 after completion of the annual risk assessment.

1 ~~(d)~~ ~~(b)~~ After a service line has been inactive for a period of two years, if there is a
2 prospect for reuse of the service line, the operator shall verify that the service line is
3 permanently marked to identify the operator's name and phone number and shall take one of
4 the following actions ~~shall be taken~~ within six months:

5 1. Disconnect the service line from all sources of gas and physically abandon or
6 remove;

7 2. A valve on the service line shall be locked in the closed position and the service line
8 plugged to prevent the flow of gas; or

9 3. Remove the meter and plug the end of the service line to prevent the flow of gas.

10 (e) After a service line has been inactive for a period of five years, if the inactive
11 service line is constructed of bare steel or cast iron or does not comply with current materials
12 standards in 49 C.F.R. 192 (2011), the inactive service line shall be retired and physically
13 abandoned within six months.

14 ~~(f)~~~~(e)~~ After ~~five~~ ten years of inactivity, service lines shall be retired and physically
15 abandoned within six months.

16 (2) To physically abandon a service line, the operator must disconnect the service line
17 from all sources of gas at the nearest point to the gas main. Where the appropriate
18 governmental authority prohibits cutting pavement, the service line shall be disconnected at
19 the nearest point not under a paved surface. The stub of the service line, the short section of
20 the remaining service line to the main, shall be disconnected closer to the main or at the main,
21 if at some later date it becomes accessible during normal operations.

22 (3) Records must be kept of the size, material, and location of all remaining service
23 line stubs. These records must be readily available to personnel assigned to pipeline locating
24 activities.

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CODING: Words underlined are additions; words in ~~struck through~~ type are deletions
from existing law.

1 | *Specific Authority 350.127(2), 368.03, 368.05(2) FS. Law Implemented 368.03, 368.05(2) FS.*

2 | *History—New 9-21-74, Repromulgated 10-7-75, Amended 10-2-84, Formerly 25-12.45,*

3 | *Amended 1-7-92, _____.*

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CODING: Words underlined are additions; words in ~~struck through~~ type are deletions from existing law.

Notice of Proposed Rule

PUBLIC SERVICE COMMISSION

RULE NO.: RULE TITLE:

25-12.045: Inactive Gas Service Lines

PURPOSE AND EFFECT: This rule is amended to update the actions that regulated local distribution companies are required to take regarding inactive gas service lines that have been used, but have become inactive without reuse.
Docket No. 120068-GU

SUMMARY: The rule is amended to specify the actions an operator must take for inactive gas service lines that have been used, but have become inactive without reuse; to specify the time frames for retirement and physical abandonment of inactive service lines; to require annual risk assessments for service lines that have been inactive for more than one year; to specify the content and 10 year record retention of such assessments.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:

The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has been prepared by the agency.

The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein: based upon the information contained in the SERC.

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

RULEMAKING AUTHORITY: 350.127(2), 368.03, 368.05(2) FS.

LAW IMPLEMENTED: 368.03, 368.05(2) FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAR.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Kathryn G. W. Cowdery, Office of General Counsel, 2540 Shumard Oak Blvd., Tallahassee, FL 32399-0850, (850) 413-6216, kcowdery@psc.state.fl.us

THE FULL TEXT OF THE PROPOSED RULE IS:

25-12.045 Inactive Gas Service Lines.

(1) An operator shall take ~~t~~The following actions ~~shall be taken~~ for inactive gas service lines that have been used, but have become inactive without reuse:

(a) An operator shall take immediate action to protect persons and property if it determines that an inactive service line is an existing or probable hazard to persons or property, and shall retire and physically abandon said line within three months of that determination.

(b) If the operator determines that there is no prospect for reuse, the service line shall be retired and physically abandoned within three months of that determination.

(c) Annual risk assessments shall be made for all service lines that have been inactive for more than one year.

1. The annual risk assessments shall identify potential threats and shall rank risks using the operator's Distribution Integrity Management Plan developed pursuant to 49 C.F.R. 192, Subpart P (2011) which is incorporated by reference in Rule 25-12.005, F.A.C. The annual risk assessments shall include the following required elements of the operator's Distribution Integrity Management Plan in identifying threats: Presence of

excess flow valves, incident and leak history, corrosion control records, continuing surveillance records, patrolling records, maintenance history, excavation damage experience, and any other data deemed relevant by the operator.

2. The annual risk assessments records shall be maintained by the operator for at least 10 years.

3. Inactive service lines that are identified in the annual risk assessments as potential threats with a high-risk ranking shall be retired and physically abandoned within six months after completion of the annual risk assessment.

(d) ~~(b)~~ After a service line has been inactive for a period of two years, if there is a prospect for reuse of the service line, the operator shall verify that the service line is permanently marked to identify the operator's name and phone number and shall take one of the following actions shall be taken within six months:

1. Disconnect the service line from all sources of gas and physically abandon or remove;
2. A valve on the service line shall be locked in the closed position and the service line plugged to prevent the flow of gas; or
3. No change.

(e) After a service line has been inactive for a period of five years, if the inactive service line is constructed of bare steel or cast iron or does not comply with current materials standards in 49 C.F.R. 192 (2011), the inactive service line shall be retired and physically abandoned within six months.

(f) ~~(e)~~ After ~~five~~ ten years of inactivity, service lines shall be retired and physically abandoned within six months.

(2) – (3) No change.

These records must be readily available to personnel assigned to pipeline locating activities.

Specific Authority 350.127(2), 368.03, 368.05(2) FS. Law Implemented 368.03, 368.05(2) FS. History—New 9-21-74, Repromulgated 10-7-75, Amended 10-2-84, Formerly 25-12.45, Amended 1-7-92, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Rick Moses

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Florida Public Service Commission

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: January 24, 2013

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAR: Volume 38, Number 21, May 25, 2012

STATEMENT OF FACTS AND CIRCUMSTANCES
JUSTIFYING RULE

The Florida Natural Gas Association (FNGA) initiated this rulemaking by petition to amend Rule 25-12.045, F.A.C. FNGA stated that certain requirements of this rule had proven to be a significant economic and competitive barrier to restoring gas service to inactive service lines which had become inactive, while providing no cognizable safety protection beyond that already provided by federal regulations. Rule 25-12.045, F.A.C., is amended to update the actions that regulated local distribution companies are required to take regarding inactive gas service lines that have been used, but have become inactive without reuse. The rule updates provisions related to protection of the public safety by identifying the appropriate time frames for retiring and physically abandoning inactive gas service lines and by requiring annual risk assessments for all service lines that have been inactive for more than one year. The amendments strengthen provisions relating to protection of the public safety and update time frames to be followed in retiring and physically abandoning inactive gas lines.

STATEMENT ON FEDERAL STANDARDS

The proposed rule subsection 25-12.045(2), F.A.C., regarding abandonment of service lines, is more stringent than the related federal standard, 49 C.F.R. 192.727(d)(1) – (3). The federal standard gives the operator the options of, essentially, locking the closed valve, installing a mechanical device to prevent gas flow, or physically disconnecting the customer's piping from the service line. These options leave gas in the abandoned service line. The Florida standard provides for increased public safety because it requires the operator to disconnect the service line from all sources of gas at the nearest point to the gas main so there is no gas left in the abandoned service lines. This more stringent safety standard is imposed to promote the protection of the public pursuant to sections 368.03 and 368.05, F.S. Section 368.03, F.S., states that this law and the rules adopted pursuant to it, are declared to be in the public interest and are deemed to be an exercise of the police power of the state for the protection of the public welfare and shall be liberally construed for the accomplishment of that purpose.

State of Florida



Public Service Commission

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

-M-E-M-O-R-A-N-D-U-M-

DATE: January 7, 2013
TO: Kathryn G.W. Cowdery, Senior Attorney, Office of the General Counsel
FROM: William B. McNulty, Economic Analyst, Division of Economic Regulation *WBM*
RE: Statement of Estimated Regulatory Cost (Revised) in Docket No. 120068-GU –
Petition to Initiate Rulemaking to Amend Rule 25-12.045, F.A.C., by Florida
Natural Gas Association.

Summary of Rules

Rule 25-12.045, F.A.C., Inactive Gas Service Lines, identifies the required actions by all investor owned gas utilities, gas municipals, and gas districts in Florida regarding inactive gas service lines that have been used, but have become inactive without reuse.

The draft amendments to Rule 25-12.045, F.A.C., (consensus draft) include the following proposed requirements which are substantially different from those identified in the existing rule:

- Subparagraph 25-12.045(1)(a), F.A.C. - Retire and physically abandon any inactive service line within 3 months of a determination that the line presents an existing or probable hazard to persons or property.
- Subparagraph 25-12.045(1)(c)1 F.A.C. - Perform an annual risk assessment for all service lines that have been inactive for more than one year.
- Subparagraph 25-12.045(1)(c)2, F.A.C. - Maintain annual risk assessment records for 10 years.
- Subparagraph 25-12.045(1)(c)3, F.A.C. - Retire and physically abandon any inactive service line identified in the annual risk assessment as a potential threat with a high risk ranking within 6 months of the assessment.
- Subparagraph 25-12.045(1)(d), F.A.C. - Verify that service lines which have been inactive for a period of two years are permanently marked to identify the operator's name and phone number.
- Subparagraph 25-12.045(1)(e), F.A.C. - Retire and physically abandon within 6 months any inactive service line constructed of bare steel or cast iron or does not comply with current materials standards in 49 C.F.R. 192 (2011) if it has been inactive for a period of five years.
- Subparagraph 25-12.045(1)(f), F.A.C. – Retire and physically abandon service lines within 6 months after 10 years of inactivity (rather than after 5 years of inactivity as required in the current rule).

1. Economic Analysis Showing Whether the Rule Is Likely to Have an Adverse Impact on Either Economic Growth or Business Competitiveness In Excess of \$1 Million Within 5 Years.

Subparagraph 120.541(2)(a)1, Florida Statutes (F.S.), requires an economic analysis showing whether the draft rule directly or indirectly is likely to have an adverse impact on economic growth, private sector job creation or employment, or private sector investment in excess of \$1 million in the aggregate within five years after the implementation of the rule. Similarly, Subparagraph 120.541(2)(a)2, F.S., requires an economic analysis showing whether the draft rule directly or indirectly is likely to have an adverse impact on business competitiveness, including the ability of persons doing business in the state to compete with persons doing business in other states or domestic markets, production, or innovation in excess of \$1 million in the aggregate within five years after the implementation of the rule.

The Florida Natural Gas Association (FNGA), in its petition to initiate rulemaking in this docket, indicated that the proposed changes to the rules will not increase regulatory costs.¹ In fact, the FNGA expects the draft changes to the rule would lead to substantial cost reductions compared to the current provisions of the rule because many service lines will be reconnected for service without incurring the costs of disconnecting and capping per the requirements of the current rule. FNGA notes that the costs associated with reinstating service on a line that has been disconnected and capped in accordance with the current rule is within the range associated with running a new service line to serve a customer.

On October 8, 2012, staff issued a data request to all investor-owned gas utilities, gas municipals, and gas districts in Florida to collect information about the cost impacts of draft amendments to Rule 25-12.045, F.A.C. Fourteen responses were received out of 58 data requests e-mailed or faxed. The fourteen responses include responses from four investor-owned gas utilities, eight gas municipals, and two gas districts. Staff's data request solicited the companies' estimated net annual incremental expense (i.e. annual incremental expense net of any annual incremental savings) associated with each proposed revision to the rule. The combined net annual incremental expense of draft rule based upon the 14 responses received to staff's data request is -\$890,654 (i.e. a cost savings of \$890,654). Four of the 14 data request responses identified cost savings associated with the draft rule amendments. The section of the draft rule that accounts for most of the respondents' projected cost savings is Subparagraph 25-12.045(1)(f), F.A.C., which requires companies to retire and physically abandon service lines within 6 months after 10 years of inactivity, rather than within 5 years of inactivity as is required under the current rule.

Expected safety incident cost impacts associated with the draft amendments to Rule 25-12.045, F.A.C., are minimal. FNGA has found no state or national data indicating that inactive lines are a significant contributing factor to safety incidents.² Several important factual considerations indicate that future levels of costs related to safety incidents should be minimal:

¹ Petition to Initiate Rulemaking, filed March 30, 2012, Page 11, Section 19.

² Petition to Initiate Rulemaking, Page 13, Section 22.

- FNGA indicates that inactive service lines and active service lines have the same percentage of leak calls or reported leaks (0.4% in 2011), but active lines have 10 times as many reported leaks compared to inactive lines simply because the vast majority of service lines are active.
- Peoples Gas System and Florida City Gas, Florida's two largest LDCs, report that their combined service lines that have been inactive greater than 60 months had only a slightly higher percentage of reported leaks (0.439%) compared to inactive lines which were inactive for less than 60 months (0.362%) for data collected in 2011.³
- The U.S. Department of Transportation's Pipeline and Hazardous Materials Safety Administration (PHMSA) 2012 report titled "Florida All Incident and Mileage Overview" shows the total "third party property damage due to excavation" for Florida's active and inactive service lines combined from 2002 to 2011 was \$730,404 and involved 7 incidents.⁴ This relatively low level of damage is credited in large part to the establishment of the "Sunshine State One Call" system in 1993 per Section 556.103(1), F.S., which requires the participation of all LDCs.⁵ FNGA states that safety incidents associated with inactive service lines are expected to be reflected in "third party property damage due to excavation."⁶

Meanwhile, the draft rule proposes increased safety monitoring of inactive service lines and required retirement and physical abandonment of inactive service lines in instances of probable and potential hazards. In addition, the draft rule proposes that bare steel and cast iron service lines inactive for a period of five years must be retired and physically abandoned within six months. Given all of foregoing considerations, the expected cost impact of the draft rule changes related to safety incidents associated with inactive service lines is minimal.

Based on responses received to staff's data request, the draft amendments to Rule 25-12.045, F.A.C., are expected to reduce the cost of providing gas service in Florida. Such savings can be expected to be passed on to ratepayers in future rate proceedings. Reduced costs are expected to improve economic growth and business competitiveness. In summary, it is unlikely that the rule would have an adverse impact on either economic growth or business competitiveness in excess of \$1 million in the aggregate within five years of the rule's implementation.

2. Economic Analysis Showing Whether the Rule Is Likely to Increase Regulatory Costs In Excess of \$1 Million Within 5 Years

Subparagraph 120.541(2)(a)3, F.S., requires an economic analysis showing whether the draft rule directly or indirectly is likely to increase regulatory costs, including any transactional costs, in excess of \$1 million in the aggregate within five years of the rule's implementation.

³ Petition to Initiate Rulemaking, Attachment A.

⁴ Petition to Initiate Rulemaking, Attachment C.

⁵ Petition to Initiate Rulemaking, Pages 14-15, Section 25.

⁶ Petition to Initiate Rulemaking, Page 12, Section 21.

Regulatory costs include good faith estimates of both the incremental transactional costs and the incremental agency costs associated with each draft rule amendment and draft rule. As discussed in Section 1 above, the companies' responses to staff's data request issued in this rule development case indicated that the companies expect the draft rule to result in cost savings. Likewise, as discussed in Section 4, the agency costs associated with the implementation and enforcement of the draft rule amendments are expected to be minimal. Thus, it is unlikely that the draft rule amendments will result in increased regulatory costs, including transactional costs, within five years of the rule's implementation.

3. Estimated Number of Entities Required to Comply and General Description of Individuals Affected

Subparagraph 120.541(2)(b), F.S., requires a good faith estimate of the number of individuals and entities likely to be required to comply with the rule, together with a general description of the types of individuals anticipated to be affected by the rule. The number of entities which will be required to comply with the draft amended Rule 25-12.045, F.A.C., is fifty-eight (58) gas serving entities, including seven (7) investor-owned gas utilities, forty-seven (47) gas municipals, and four (4) gas districts.

4. Rule Implementation and Enforcement Costs and Impact on Revenues For The Agency and Other State and Local Government Entities

Section 120.541(2)(c), F.S., requires a good faith estimate of the cost to the agency, and to any other state and local government entities, of implementing and enforcing the proposed rule, and any anticipated effect on state or local revenues. If the draft rule amendments are approved and becomes effective, the rule is expected to have no impact on the Commission's costs of rule implementation and enforcement. Any additional regulatory review activities required by the draft amendments to the rule can be absorbed by the current level of staffing. No other state or local government entities' costs are impacted by the draft amended rule. There are no anticipated effects on state and local revenues.

5. Estimated Transactional Costs to Individuals and Entities

Section 120.541(2)(d), F.S., requires a good faith estimate of the transactional costs likely to be incurred by individuals and entities, including local government entities, required to comply with the requirements of the rule. The analysis of the likely transactional cost impacts of the draft amendments to Rule 25-12.045, F.A.C., appears in Section 1 above based on responses to staff data requests and review of the petition and related attachments. The draft amendments to Rule 25-12.045, F.A.C., are likely to result in transactional cost savings by individuals and entities, including local government entities, required to comply with the rule.

6. Impact On Small Businesses, Small Cities, Or Small Counties

Section 120.541(2)(e), F.S., requires an analysis of the impact of the proposed changes on small businesses as defined by Section 288.703, F.S., and an analysis of the impact on small

Kathryn G.W. Cowdery

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counties and small cities as defined in Section 120.52, F.S. As stated in Section 1, gas service ratepayers, including small businesses, small counties, and small cities, are expected to incur lower gas service rates than they would under the current rule as the cost savings of the gas service entities are expected to be passed on to ratepayers in future rate proceedings. The draft amendments to Rule 25-12.045, F.A.C., are expected to result in a slight reduction in costs to small businesses, small counties, or small cities in the medium and long term.

7. Additional Information Deemed Useful By The Agency

None.

cc: Tom Ballinger
Jim Dean
Mark Futrell
Marshall Willis