

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

IN RE: Adoption of Rules 25-7.047, )	DOCKET NO. 900532-GU
25-7.0471, 25-7.0472, and 25-7.0473, )	
F.A.C., regarding territorial )	ORDER NO. 23605
agreements and disputes for natural )	
gas utilities. )	ISSUED: 10-12-90
_____ )	

NOTICE OF RULEMAKING

NOTICE is hereby given that the Commission, pursuant to section 120.54, Florida Statutes, has initiated rulemaking to adopt Rules 25-7.047, 25-7.0471, 25-7.0472 and 25-7.0473, F.A.C., relating to territorial agreements and disputes for natural gas utilities.

The attached Notice of Rulemaking will appear in the October 19, 1990 edition of the Florida Administrative Weekly. If requested, a hearing will be held at the following time and place:

9:30 a.m., Wednesday, December 5, 1990  
Room 122, Fletcher Building  
101 East Gaines Street  
Tallahassee, Florida

Written requests for hearing and written comments or suggestions on the rules must be received by the Director, Division of Records and Reporting, Florida Public Service Commission, 101 East Gaines Street, Tallahassee, FL 32399, no later than November 9, 1990.

By Direction of the Florida Public Service Commission, this  
12th day of OCTOBER, 1990.

  
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 STEVE TRIBBLE, Director  
 Division of Records & Reporting

( S E A L )  
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DOCUMENT NUMBER-DATE  
09160 OCT 12 1990  
RECORDS REPORTING

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FLORIDA PUBLIC SERVICE COMMISSION

Division of Appeals

DOCKET NO. 900532-GU

RULE TITLE:	RULE NO.:
Territorial Agreements and Disputes for Natural Gas Utilities - Definitions.	25-7.047
Territorial Agreements for Natural Gas Utilities.	25-7.0471
Territorial Disputes for Natural Gas Utilities.	25-7.0472
Customer Participation.	25-7.0473

PURPOSE AND EFFECT: The purpose and effect of the proposed new rules is to implement Section 366.04(3) and (4), Florida Statutes and to codify current Commission policy and practice regarding territorial agreements and disputes between Natural Gas Utilities.

SUMMARY: Proposed Rule 25-7.047 defines "territorial agreement", "territorial dispute", and "natural gas utility" as those terms are to be used in the rules. Proposed Rule 25-7.0471 codifies current Commission filing requirements and practices regarding territorial agreements and their approval by the Commission. Proposed Rule 25-7.0472 sets out requirements for initiating a territorial dispute proceeding before the Commission, and it delineates the factors the Commission may consider in resolving territorial disputes. Proposed Rule 25-7.0473 provides for customer participation in territorial agreement and dispute proceedings.

RULEMAKING AUTHORITY: 366.05(1), F.S.

LAW IMPLEMENTED: 366,04(3)(a)(b)(c), 366.04(4), F.S.

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SUMMARY OF THE ESTIMATE OF ECONOMIC IMPACT OF THESE RULES: The proposed new territorial agreement and dispute rules are not expected to have a significant economic impact on the Commission or the natural gas utilities.

WRITTEN COMMENTS OR SUGGESTIONS ON THE PROPOSED RULE MAY BE SUBMITTED TO THE FPSC, DIVISION OF RECORDS AND REPORTING, WITHIN 21 DAYS OF THE DATE OF THIS NOTICE FOR INCLUSION IN THE RECORD OF THE PROCEEDING. IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD AT THE DATE AND PLACE SHOWN BELOW:

TIME AND DATE: 9:30 A.M., December 5, 1990

PLACE: Room 122, 101 East Gaines Street, Tallahassee, Florida.

THE PERSON TO BE CONTACTED REGARDING THESE RULES AND THE ECONOMIC IMPACT STATEMENT IS: Director of Appeals, Florida Public Service Commission, 101 East Gaines Street, Tallahassee, Florida 32399

THE FULL TEXT OF THE RULE IS:

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

For the purpose of Rules 25-7.0471, 25-7.0472 and 25-7.0473 the following terms shall have the following meaning:

(1) "territorial agreement" means the entire agreement between two or more natural gas utilities which identifies the geographical areas to be served by each natural gas utility party to the agreement, the terms and conditions pertaining to implementation of the agreement, and any other terms and conditions pertinent to the agreement;

(2) "territorial dispute" means a disagreement as to which utility has the right and the obligation to serve a particular

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geographical area.

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

Specific Authority: 366.04(3)(a)(b)(c)(4), F. S.

Law Implemented: 366.04, F. S.

History: New.

25-7.0471 Territorial Agreements for Natural Gas Utilities.

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

- (a) a map and a written description of the area;
- (b) the terms and conditions pertaining to implementation of the agreement, and any other terms pertaining to the agreement,
- (c) the number and class of customers to be transferred,
- (d) assurance that the affected customers have been contacted and the difference in rates explained, and

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

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

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

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

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

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

Specific Authority: 366.05(1), F. S.

Law Implemented: 366.04(3)(a)(b)(c), 366.04(4), F. S.

History: New

25-7.0472 Territorial Disputes for Natural Gas Utilities.

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

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

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

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

(c) The cost of each utility to provide natural gas service to the disputed area presently and in the future; which includes but is not limited to the following:

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

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

(3) The Commission may require additional relevant

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information from the parties of the dispute if so warranted.

Specific Authority: 366.04(3)(a)(b)(c)(4), F. S.

Law Implemented: 366.04, F. s.

History: New.

25-7.0473 Customer Participation.

(1) Any customer located within the geographic area in questions shall have 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 a reasonable opportunity to cross-examine or challenge or rebut it.

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

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

Specific Authority: 366.04(3)(a)(b)(c)(4), F. S.

Law Implemented: 366.04, F. S.

History: New

NAME OF PERSON ORIGINATING PROPOSED RULE: Max Fulford

NAME OF SUPERVISOR OR PERSON(S) WHO APPROVED THE PROPOSED

RULES: Florida Public Service Commission

DATE PROPOSED RULES APPROVED: October 02, 1990

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

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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.



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

For the purpose of Rules 25-7.0471, 25-7.0472 and 25-7.0473 the following terms shall have the following meaning:

(1) "territorial agreement" means the entire agreement between two or more natural gas utilities which identifies the geographical areas to be served by each natural gas utility party to the agreement, the terms and conditions pertaining to implementation of the agreement, and any other terms and conditions pertinent to the agreement;

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

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

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

Law Implemented: 366.04, Florida Statutes.

History: New.

CODING: Words underlined are additions; words in 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 pertaining to the agreement,

9       (c) the number and class of customers to be transferred,

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

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

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

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

22       (b) the reasonable likelihood that the agreement, in and of  
23 itself, will not cause a decrease in the reliability of natural gas  
24 service to the existing or future ratepayers of any utility party  
25 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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CODING: Words underlined are additions; words in  
~~struck-through~~ type are deletions from existing law.

1        25-7.0472 Territorial Disputes for Natural Gas Utilities.

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

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

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

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

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

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

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

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

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

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

20 Law Implemented: 366.04, Florida Statutes

21 History: New.

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1        25-7.0473 Customer Participation.

2        (1) Any customer located within the geographic area in  
3 questions 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  
10 right 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 25-  
14 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