

In re: Request for limited proceeding by Indiantown Gas Company for approval of Natural Gas Tariff, Original Volume No. 2, implementing restructured rates.

DOCKET NO. 020470-GU
ORDER NO. PSC-02-1666-PAA-GU
ISSUED: November 26, 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 PROPOSED AGENCY ACTION
ORDER APPROVING REQUEST FOR LIMITED PROCEEDING,
ESTABLISHING AUTHORIZED RETURN ON EQUITY, AND
REQUIRING REFUND OF OVERCOLLECTION OF REGULATORY ASSESSMENT FEES

BY THE COMMISSION:

NOTICE is hereby given by the Florida Public Service Commission that the action discussed herein is preliminary in nature and will become final unless a person whose interests are substantially affected files a petition for a formal proceeding, pursuant to Rule 25-22.029, Florida Administrative Code.

BACKGROUND

On May 24, 2002, Indiantown Gas Company (Indiantown or the Company) filed a Request for Approval of Natural Gas Tariff, Original Volume No. 2, Implementing Restructured Rates, and for Establishment of Authorized Return on Equity (ROE). By separate petition filed on May 24, 2002, in Docket No. 020471-GU, Indiantown also requested approval to transfer all of its remaining sales customers to transportation-only service.

DOCUMENT NUMBER-DATE

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FPSC-001 POSITION CLERK

Indiantown requested that the petition be processed pursuant to our Proposed Agency Action procedure pursuant to Section 366.06(4), Florida Statutes. By letter dated June 12, 2002, Indiantown agreed to waive the 60-day statutory file and suspend date for the proposed tariff revisions submitted with its petition, pursuant to Section 366.06(3), Florida Statutes. By letter received October 1, 2002, Indiantown waived the five-month statutory deadline for action on a petition for Proposed Agency Action, pursuant to Section 366.06(4), Florida Statutes.

On July 11, 2002, our staff convened a customer meeting in Indiantown to hear and respond to customer testimony and questions related to the Company's petition. No customers chose to speak at the customer meeting.

We have has authority to consider this matter pursuant to Section 366.06, Florida Statutes.

RESTRUCTURED RATES AND RATE CLASSES

Indiantown has submitted a new tariff (Original Volume No. 2) that is intended to replace the existing tariff in its entirety. The new tariff contains Indiantown's requested restructured rates, and also incorporates its proposal to provide transportation-only service to all customers and to exit the merchant function.

Rate Restructuring

Indiantown has never had a rate case before this Commission, and its rates have remained essentially unchanged since 1985, when its rate structure was modified to eliminate declining block rates. Indiantown currently serves two large industrial customers that represent about 95% of the therm sales of the Company. One of these customers, a citrus processing plant, is currently a transportation-only customer, and the remaining large customer, a cogeneration facility, is planning to transfer to transportation-only service in the near future. Indiantown also serves approximately 600 residential and 25 commercial customers that represent the remaining 5% of total therm sales.

The proposed restructured rates are intended to be revenue neutral to Indiantown's existing rates. This means that the new

rates will recover no more revenues than Indiantown's existing rates, based on the test year billing determinants. In support of its restructured rates, Indiantown filed with its petition a cost of service study using a 2001 historic test year.

The stated reasons for Indiantown's rate restructuring are to move the various customer classes toward parity (i.e., to move the rates of return of the individual rate classes closer to the system rate of return), and to address the potential threat of bypass by Indiantown's two large industrial gas users. The overall system rate of return will remain unchanged after the rate restructuring. However, the rates charged to various classes of service will change. Rates for residential and commercial customers will increase, while rates for large industrial customers will decrease.

The approved reallocation of Indiantown's revenues to the rate classes is shown in Attachment 1. As shown in the Attachment, the reallocation results in rates of return for each class that are equal to the system rate of return, based on the cost of service study filed by Indiantown. The restructured rates that result from the allocation of revenues are shown on Attachment 2.

The approved restructured rates differ in two respects from those originally proposed by Indiantown. First, due to the correction of minor errors in the calculation of the revenues that Indiantown's current rates produce, the approved rates are slightly lower than those proposed by Indiantown. Indiantown filed a revised cost of service study that reflects the lower rates.

Second, we are approving a lower customer charge (and thus a higher energy charge) for the TS-1 rate class than that proposed by Indiantown. Currently, Indiantown's residential customers pay a \$5.00 customer charge, and under Indiantown's proposed TS-1 rate class they would pay \$10.75. Because the customer charge represents a large proportion of residential customers' bills (particularly for low-use customers), we find that the proposed customer charge increase is excessive. We therefore find that the TS-1 customer charge shall be set at \$9.00. We find that this is reasonable, given that the residential customer charges for the remaining Florida investor-owned gas utilities range from \$7.00 to \$10.00.

Changes to Rate Classes

In conjunction with its restructuring of rates, Indiantown has proposed to redefine its rate classes based on usage characteristics, rather than the current classification that utilizes end-use application (i.e., Residential, Commercial and Industrial).

The new rate classifications are transportation-only schedules, consistent with Indiantown's intention to exit the gas merchant function, and thus contain no reference to the Purchased Gas Adjustment charge. The schedules are designated Transportation Service 1 through 5, and are defined in terms of annual therm usage. For example, the newly created TS-1 rate is applicable to all customers who use up to 1,000 therms per year, regardless of whether the usage is residential or commercial in nature. The approved new rate classes and their corresponding existing rate classes are shown on Attachment 2.

Conclusion

We have carefully reviewed the cost of service methodology, as well as the revenue calculation and billing determinants, and find that they are reasonable for use in determining the restructuring of Indiantown's rates. We find that the approved restructured rates shown in Attachment 2 will achieve the goal of more closely aligning the rates of its customers with the actual cost to serve them. In addition, the restructuring will help to insure the retention of Indiantown's existing industrial load, the loss of which would necessitate large rate increases to the remaining customers.

The rates shall become effective for meter readings on or after December 5, 2002.

ESTABLISHING AUTHORIZED RETURN ON EQUITY

At present, Indiantown does not have an authorized ROE. In its petition, Indiantown requests that we establish an ROE of 11.50%. The Company believes that by establishing an ROE it will be easier to make a financial comparison with the other Florida gas utilities. The Company states in its petition that:

[t]his proposed ROE is a fair, just, reasonable, and compensatory rate in light of the competitive market conditions in which the Company conducts its business, is consistent with the rates of return currently in effect for other natural gas public utilities subject to the Commission's regulation, and will give the Company the 'opportunity to earn a reasonable rate of return on its rate base' as required by Section 366.041, Florida Statutes.

As justification for its request, the Company cites the recent rate cases involving two other Florida natural gas public utilities whose ROEs were set at 11.50% (St. Joe Natural Gas Company, Order No. PSC-01-1274-PAA-GU, issued June 8, 2001, in Docket No. 001447-GU; and Chesapeake Utilities, Order No. PSC-00-2263-FOF-GU, issued November 28, 2000, in Docket No. 000108-GU). Like Indiantown, both of these utilities have relatively small customer bases and usage patterns that are dominated by the throughput of a small number of large industrial customers.

Based upon recent decisions, we find that an authorized ROE of 11.50% would be a reasonable return for Indiantown. In order to facilitate our earnings surveillance function with respect to Indiantown's financial operations, and in the interest of regulatory efficiency and cost savings, we grant the Company's request for an authorized ROE of 11.50%. However, it should be noted that if this docket went to hearing, we would not necessarily approve an ROE of 11.50%.

In the recent St. Joe rate case, we included a common equity ratio cap of 60%. In addition, in both the Chesapeake and City Gas rate cases, both companies had common equity ratios under 60%. We calculate a common equity ratio by dividing common equity by the total sum of investor sources of capital. Investor sources of capital include common equity, preferred stock, long-term, and short-term debt. We find that it is prudent and reasonable to limit Indiantown's ratio of common equity as a percentage of investor sources of capital to 60%.

We note that in this proceeding the 11.50% ROE will not be used in setting rates, but will be used for all other regulatory purposes. Therefore, customers will not be impacted at this time.

As stated above, for all regulatory purposes except for setting rates in this docket, we grant Indiantown's request for an authorized ROE of 11.50% with a range of plus or minus 100 basis points. In addition, we limit the Company's common equity ratio to not more than 60%. The effective date of the authorized ROE and common equity ratio cap shall be one day after the Consummating Order has been issued in this docket.

REQUIRING REFUND OF OVERCOLLECTION OF REGULATORY ASSESSMENT FEES

Beginning January 1, 1999, and extending through July 31, 2002, Indiantown inappropriately collected the regulatory assessment fee through a separate line item consolidated surcharge on its customers' bills. The consolidated surcharge included both the regulatory assessment fee and the gross receipts tax, as well as a tax gross-up factor. While it is permissible to bill the non-base rate portion of the gross receipts tax as a surcharge on the bill, regulatory assessment fees are properly recovered through base rates. This over-collection applies only to the base rate portion of the customer's bill because the Purchased Gas Adjustment (PGA) factor on the bills was not grossed up for either the regulatory assessment fee or the gross receipts tax.

Indiantown provided a calculation of the amount of the regulatory assessment fee overcollection for the January 1999 through July 2002 period. The amounts were provided on an individual customer basis for Indiantown's two large interruptible customers and on a consolidated basis for its residential and commercial customers. We then calculated the amount of interest associated with the overcollections by using the appropriate monthly commercial paper rates as provided for in Rule 25-7.091, Florida Administrative Code.

We find that Indiantown shall refund the overcollections due to Caulkins Indiantown Citrus (\$1,878.53 plus \$132.09 interest) and Indiantown Cogeneration (\$5,109.61 plus \$541.14 interest) either directly by check or by a credit on the bill. We find that a customer of record refund based on actual consumption for the residential and commercial customers would be overly burdensome for Indiantown. Instead, the residential and commercial customer refund (\$1,054.39 plus \$78.97 interest) shall be refunded as a per term credit determined by dividing the amount of the refund by the

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estimated therm sales for the billing period during which the refund will be credited to the customers' bills. Interest shall continue to accrue through the end of the month preceding the month during which the refund is made.

If a protest is filed within 21 days of the Order approving this tariff by a person whose substantial interests are affected, the tariff shall remain in effect pending resolution of the protest, with any charges held subject to refund pending resolution of the protest. If no protest is filed, this docket shall be closed upon the issuance of a Consummating Order.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that the request for limited proceeding by Indiantown Gas Company for approval of Natural Gas Tariff, Original Volume No. 2, implementing restructured rates, is granted as set forth in the body of this Order. It is further

ORDERED that each of the findings made in the body of this Order is hereby approved in every respect. It is further

ORDERED that all matters contained in the schedules attached hereto are incorporated herein by reference. It is further

ORDERED that the restructured rates shall become effective for meter readings on or after December 5, 2002. It is further

ORDERED that for all regulatory purposes, Indiantown Gas Company's request for an authorized return on equity (ROE) of 11.50% with a range of plus or minus 100 basis points is granted. It is further

ORDERED that the Company's ratio of common equity as a percentage of investor sources of capital shall be limited to 60%. It is further

ORDERED that Indiantown shall refund the overcollection of regulatory assessment fees as set forth in the body of this Order. It is further

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ORDERED that the provisions of this Order, issued as proposed agency action, shall become final and effective upon the issuance of a Consummating Order unless an appropriate petition, in the form provided by Rule 28-106.201, Florida Administrative Code, is received by the Director, Division of the Commission Clerk and Administrative Services, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on the date set forth in the "Notice of Further Proceedings" attached hereto. It is further

ORDERED that if a protest is filed within 21 days of the Order approving this tariff by a person whose substantial interests are affected, the tariff shall remain in effect pending resolution of the protest, with any charges held subject to refund pending resolution of the protest. It is further

ORDERED that if no protest is filed, this docket shall be closed upon the issuance of a Consummating Order.

By ORDER of the Florida Public Service Commission this 26th day of November, 2002.

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

By: Kay Flynn
Kay Flynn, Chief
Bureau of Records and Hearing
Services

(S E A L)

JSB

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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 that is available under Section 120.57, 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 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 action proposed herein is preliminary in nature. Any person whose substantial interests are affected by the action proposed by this order may file a petition for a formal proceeding, in the form provided by Rule 28-106.201, Florida Administrative Code. This petition must be received by the Director, Division of the Commission Clerk and Administrative Services, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on December 17, 2002.

In the absence of such a petition, this order shall become final and effective upon the issuance of a Consummating Order.

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