

BEFORE THE PUBLIC SERVICE COMMISSION

In re: Petition for authority to convert and transfer all remaining sales customers to transportation service, to terminate merchant function, and for approval of certain tariff changes on experimental basis, by Sebring Gas System, Inc.

DOCKET NO. 031123-GU  
ORDER NO. PSC-04-0499-TRF-GU  
ISSUED: May 14, 2004

The following Commissioners participated in the disposition of this matter:

BRAULIO L. BAEZ, Chairman  
J. TERRY DEASON  
LILA A. JABER  
RUDOLPH "RUDY" BRADLEY  
CHARLES M. DAVIDSON

ORDER GRANTING PETITION TO CONVERT REMAINING  
SALES CUSTOMERS TO TRANSPORTATION SERVICE  
AND TO TERMINATE MERCHANT FUNCTION

BY THE COMMISSION:

In April 2000, we adopted Rule 25-7.0335, Florida Administrative Code, which requires each local distribution company (LDC) to offer the transportation of natural gas to all non-residential customers. The rule further provides that each LDC may offer the transportation of natural gas to residential customers when it is cost effective to do so.

At the time of our adoption of Rule 25-7.0335, Sebring Gas Company (Sebring or the Company) did not offer transportation service. At present, Sebring serves approximately 900 residential and commercial customers with no large demand industrial users. Total annual system throughput varies but is less than 650,000 therms. The system's small customer base, and corresponding low overall level of usage contribute to the challenge of procuring gas at competitive prices for Sebring's customers. Given the low level of its system throughput associated with sales service, the Company believes that if it were to remain in the merchant function, it would find it increasingly difficult to deliver gas to its customers at competitive prices.

Sebring concluded that the only cost effective approach available to it is to completely exit the merchant function, and require that all sales customers convert to transportation service. Accordingly, on December 22, 2003, Sebring filed a petition for permission to convert and

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transfer all remaining sales customers to transportation service, to terminate the merchant function, and for approval of certain tariff changes on experimental basis. A letter of clarification regarding Sebring's petition was filed January 27, 2004. Our staff's recommendation on Sebring's petition was deferred from the February 17, 2004 Agenda Conference, so that the Company could send out a notice of the petition to its customers. Customer notice has been mailed to all customers explaining Sebring's petition to transfer all sales customers to transportation, and exit the merchant function.

We have jurisdiction over this matter by several provisions of Chapter 366, Florida Statutes, including Sections 366.03, 366.04, 366.05, 366.06, and 366.075, Florida Statutes.

Under Sebring's proposal, it would establish two transportation service programs through its tariff. The first program would revise Sebring's existing "pro-forma" transportation tariff to establish an Individual Transportation Service (ITS) Program as an option for customers using over 100,000 therms per year. Under the proposed ITS program, larger customers would be able to select a gas marketer, negotiate the terms of service and individually schedule gas deliveries to the Company's distribution system.

The second program, an Aggregated Transportation Service (ATS) tariff would be established to facilitate the conversion of the small volume sales service customers using less than 100,000 therms per year, to a single aggregated customer pool. A qualified gas marketer would be retained to administer the pool. This Pool Manager would have the capability of combining the gas supply requirements of customers in the ATS pool with other customers served by the Pool Manager, both on and off the Company's distribution system.

Sebring believes its customers' gas supply needs are best served by a gas marketer with the ability to "rebundle" the Company's small volume gas users into a diversified, state-wide customer group consisting of industrial and commercial customers with different levels of usage. The increased market power of a larger overall customer group with greater gas volume requirements, will result in a higher probability of obtaining lower gas costs than would be achieved by the decreasing sales service volumes on the Company's system alone. Sebring's approach will allow all stakeholders adequate time to develop the knowledge and experience needed for a successful transition to a fully competitive open market.

Sebring shall maintain a contractual relationship with the Pool Manager throughout the transition period. The transition period has been designed to provide reliable service at reasonable prices, while gradually introducing more options and choices to a better informed customer group. The ATS tariff includes a phased-in transition period to be completed over several years on an experimental basis and is similar to proposals by the Florida Division of Chesapeake Utilities Corporation (Chesapeake) and Indiantown Gas Company (Indiantown), approved by Order Nos. PSC-02-1646-TRF-GU, issued November 25, 2002, in Docket No. 020277-GU, In re: Petition of Florida Division of Chesapeake Utilities Corporation for authority

to convert all remaining sales customers to transportation service and to exit the merchant functions, and PSC-02-1655-TRF-GU, issued November 26, 2002, in Docket No. 020471-GU, In re: Petition for authority to convert all remaining sales customers to transportation service and to terminate merchant function by Indiantown Gas Company.

The implementation of the programs shall be for a period where all remaining residential and non-residential sales customers will receive gas supply service through one qualified Pool Manager, selected by the Company. Sebring has an established relationship with a marketer who has purchased for Sebring its total gas supply for the past ten years. This marketer has committed to offer fuel and capacity management services under the same terms and conditions for gas supply as that obtained by Request For Proposal for the Commission-approved programs of Chesapeake and Indiantown. The ATS agreement between the Company and the Pool Manager is structured to provide customers the opportunity to select between two pricing options: a monthly indexed price, similar to the current Purchased Gas Adjustment (PGA) pricing mechanism, or a fixed price option that enables customers to mitigate the potential price volatility of the monthly indexed price.

On January 27, 2004, Sebring filed a letter of clarification to its petition, stating that the initial program offering would be on an experimental basis for a period of two years, consistent with our decision on similar requests from Chesapeake and Indiantown. Sebring is agreeable to providing reports and information consistent with our decisions in those orders. Near the end of the initial two-year period, the Company will evaluate customer acceptance of the program, assess its own capabilities to expand program options, and make a determination of the feasibility and timing for continuing further. Sebring will report to us on the results of the programs. After submitting the report, Sebring will have to petition us for approval to continue or end the program. The report shall be submitted within 90 days prior to the conclusion of the initial period of the program.

The Company's proposal is carefully designed to avoid exposure of its customers to the risk of service disruption. The ATS Agreement provides for severe financial penalties and/or potential termination of the agreement in the event that the ATS Pool Manager fails to deliver gas. Sebring is prepared to act as the supplier of last resort in the case of long term problems.

The ATS Agreement specifically defines the Pool Manager's actions or omissions constituting a default, including: failure to observe the terms and conditions of the ATS Agreement; failure in performance of essential duties and obligations such as failing to deliver gas for an extended period without prior approval, force majeure, or re-relinquishing capacity outside the contract limits; engaging in price gouging, slamming or other improper or unlawful activities; and, the failure to maintain financial viability.

Sebring shall implement procedures and provide the oversight necessary to ensure continuity of service to the pool customers in a default situation. If the Pool Manager defaults,

the Company will act to terminate the ATS Pool Manager and, as the supplier of last resort, will recall the interstate pipeline capacity, arrange for gas supply, and perform all other necessary functions to ensure delivery to affected customers, until arrangements to qualify a replacement Pool Manager could be made. Should the company be required to provide such temporary emergency back-up service, the cost of gas charges will be allocated to customers through the Operational Balancing Account mechanism in the Company's tariff.

For the residential and non-residential customers transitioning from sales to transportation service, the Company will maintain the customer service function, maintain customer account transaction records, and provide gas supply billing and collections indefinitely. Customers will continue to receive one monthly bill, and the Pool Manager's charges will appear in lieu of the Company's purchased gas adjustment. The Company will charge the Pool Manager \$2.00 per ATS customer per month for providing such service. The Company will follow a prescribed hierarchy in applying customer payments. All payments will first be applied to any taxes and fees imposed by government; second, to the Pool Manager's charges for gas supply; and third, to the Company's regulated transportation charges.

This payment hierarchy will enable the Company to retain the capability to disconnect customers for non-payment in the event of a partial payment. Applying the payment to the Pool Manager's gas supply cost prior to the Company's regulated charges will prevent customers from taking advantage of the absence of the Pool Manager's service disconnect authority by paying only the regulated charges. However, this arrangement will not provide protection to the Pool Manager in the event that the customer failed to pay at all. The Pool Manager will have the authority to appropriately secure customer accounts through cash deposits or similar means.

As the Company prepares to exit the merchant function, participation in the purchased gas cost recovery proceedings will no longer be necessary. Further, upon activation of service by the ATS Pool Manager, there will cease to be any need for the Company to have an active PGA mechanism. We will review whatever over- or under-recovery may have accrued at that time for appropriate disposition by the Company. Sebring proposes to address that matter in a subsequent filing within ninety days of the termination of its gas sales merchant function.

The Company mailed a notice to its customers on March 12, 2004 describing the new program. The customers that responded to the notice supported the program. The Company has submitted revised tariff sheets that incorporate the changes necessary to implement transportation service to all remaining sales customers.

Sebring cites section 366.075, Florida Statutes, as our authority for approving the petition. That section grants us the authority to approve experimental and transitional rates. Approval of the petition pursuant to Section 366.075, Florida Statutes, is consistent with our decisions in Order Nos. PSC-02-1646-TRF-GU and PSC-02-1655-TRF-GU.

Based on the foregoing circumstances, we find that Sebring's proposal to convert all remaining sales customers to transportation service and to exit the merchant function on an experimental basis is appropriate and reasonable, and is hereby approved. The tariff shall become effective on April 20, 2004, the date of our vote on this matter.

Based on the foregoing, it is

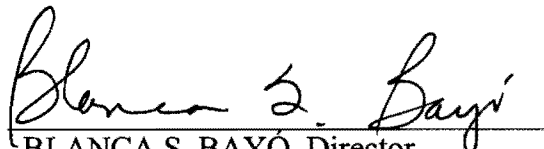
ORDERED by the Florida Public Service Commission that Sebring Gas System, Inc.'s petition for authority to convert all remaining sales customers to transportation service and to exit the merchant function on an experimental basis, is hereby approved, effective April 20, 2004. It is further

ORDERED that Sebring Gas System, Inc. shall file a report with this Commission 90 days prior to the conclusion of the initial period of the program. The report shall contain information regarding customer acceptance, an assessment of Sebring's capability to expand the program, and a determination of the feasibility of continuing the program. It is further

ORDERED that if a protest is filed within 21 days of the Commission 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 14th day of May, 2004.

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

( S E A L )

JSB

NOTICE OF FURTHER PROCEEDINGS

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 proposed action files 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 June 4, 2004.

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 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.