

BEFORE THE PUBLIC SERVICE COMMISSION

In re: Petition for waiver of service line abandonment provisions of Rule 25-12.045, F.A.C. by Florida Natural Gas Association. | DOCKET NO. 070135-GU  
ORDER NO. PSC-07-0488-PAA-GU  
ISSUED: June 8, 2007

The following Commissioners participated in the disposition of this matter:

LISA POLAK EDGAR, Chairman  
MATTHEW M. CARTER II  
KATRINA J. McMURRIAN  
NANCY ARGENZIANO  
NATHAN A. SKOP

NOTICE OF PROPOSED AGENCY ACTION  
ORDER GRANTING TEMPORARY RULE WAIVER

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 ("F.A.C.").

On March 1, 2007, the Florida Natural Gas Association ("FNGA") filed a petition on behalf of its members, to temporarily waive the service line abandonment provisions of Rule 25-12.045, F.A.C. FNGA is a natural gas trade association representing investor-owned local distribution companies ("LDC"), special gas districts, municipal distribution systems, gas transmission companies, gas marketing companies, and others affiliated with the natural gas industry. FNGA's members include Florida's seven investor-owned gas distributors and twenty-nine of the thirty-one special districts and municipal distribution systems. Each FNGA member is subject to the regulatory jurisdiction of this Commission for gas safety under Chapter 368, Part I, Florida Statutes, (F.S.) and Rule 25-12.045, F.A.C. Rule 25-12.045, F.A.C., applies directly to FNGA's members, and FNGA meets the definition of "person" as referenced in Section 120.542, F.S., and defined in Section 120.52(13), F.S. FNGA filed its petition on behalf of its members, who would otherwise have standing to petition the Commission on their own rights.

Pursuant to Section 120.542, F.S., notice of the rule waiver petition for Rule 25-12.045, F.A.C., was filed with the Florida Administrative Weekly (FAW) on March 13, 2007, and subsequently published on March 23, 2007. Comments on FNGA's petition were due on April

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6, 2007. No written comments were received and the time for filing written comments has expired.

We have jurisdiction over this subject matter pursuant to Sections 368.05(1) and 120.542, F.S.

### **Discussion**

Rule 25-12.045, F.A.C., requires the physical abandonment of gas service lines that have been used, but became inactive with no prospect for reuse. If there is no prospect for reuse, the service line must be physically abandoned and retired within three months of becoming inactive. Rule 25-12.045, F.A.C., also provides that after two years of inactivity and the prospect of reuse still does not exist, the gas service provider must, within a six month period, disconnect the service line from all sources of gas and abandon or remove the line, lock the valve on the service line in a closed position, and plug the line to prevent the flow of gas, or remove the meter and plug the service line. After five years of inactivity, the service line provider must retire and physically abandon the line within six months. Subsections (2) and (3), provides details on the procedures for physical abandonment of a service line and the record keeping procedure for service line stubs that must be maintained by FNGA members. FNGA has asked for a waiver of Rule 25-12.045, F.A.C., so that it will have an opportunity to establish the marketing and incentive tools needed to improve the retention of existing customers and attract inactive customers back to gas services.

In its petition, FNGA specifically seeks to temporarily waive the requirements in Rule 25-12.045 (1) (b), F.A.C., for any service line that has currently been inactive for a period of two years or reaches such inactive status during 2007. Also, FNGA seeks a waiver of the requirements in Rule 25-12.045(1)(c), F.A.C., for any service line that has currently been inactive for a period of five years or reaches such inactive status during 2007.

Section 120.542, F.S., authorizes us to grant variances or waivers to the requirements of our rules where the person subject to the rule has demonstrated that the underlying purpose of the statute has been or will be achieved by other means, and strict application of the rule would cause the person substantial hardship or would violate principles of fairness. "Substantial hardship" as defined in Section 120.542, F.S., means demonstrated economic, technological, legal, or other hardship.

Rule 25-12.045, F.A.C., implements Section 368.05(2), F.S. Section 368.05(2), F.S., provides that the Commission may require the filing of periodic reports and all other data reasonably necessary to determine whether the safety standards prescribed by it are being complied with, and may require repairs and improvements to the gas transmission and distribution piping systems subject to this law which are reasonably necessary to promote the protection of the public. Waiver of the parts of Rule 25-12.045, F.A.C., which provide for the physical abandonment of gas services lines that have not been used but become inactive with no prospect for re-use, will not prevent us from meeting our statutory requirements under Section 368.05(2), F.S. During the two-year waiver period requested by FNGA, its members will closely

monitor the service abandonment lines and maintain records, in addition to those specified in Rule 25-12.045(3), F.A.C., on the location of each deferred inactive service line and any reported line breaks or other incidents related to each service line. We find that the precautionary measures FNGA members will be taking are appropriate because the general public will be protected during the waiver period. Moreover, all other safety requirements under Rule 25-12.045, F.A.C., will still apply to each FNGA member. For example, FNGA members will still be required to disconnect the service line from all sources of gas, they will still be required to lock the valve in a closed position and plug the service line to prevent the flow of gas, and they will still be required to disconnect the service line from all sources of gas at the nearest point to the gas main.

Additionally, we find that FNGA will incur a substantial hardship if the waiver request is denied. As stated, substantial hardship is defined as a person incurring an economic, technological, legal, or other hardship. Here, FNGA members will experience an economic hardship. For example, it costs approximately \$75 to \$100 per meter to remove a meter in the field, plug the service line, and complete the applicable recordkeeping requirements. To physically abandon a service line costs approximately \$350 to over \$500, depending on the location of the service line. By the end of 2007, FNGA members will be required to remove thousands of meters and cut and cap thousands of service lines. These costs could be reduced if FNGA and its members are given an opportunity to establish the marketing and incentive tools needed to improve the retention of existing customers and attract inactive customers back to using gas. FNGA, along with its members, has outlined several marketing and incentive activities it has taken or plans to take, to improve the retention of existing customers, and attract inactive customers back to using gas. These activities include increasing the number of contractors qualified to provide gas installations and services, increasing the quantity and model selection of gas appliances available at Florida appliance retailers, and funding gas energy conservation advertising and consumer education. Also, the cost to cut and cap service lines that are physically abandoned could result in a duplicative and unnecessary cost. Reason being, FNGA members would have to reinitiate the same services lines for new customers if the new marketing programs prove to be as successful.

At the expiration of the proposed waiver period, which is December 31, 2009, FNGA will consolidate information from each member and submit a summary report to us by March 30, 2010. The summary will describe the results achieved by each member for any deferred inactive service line to reactivate such facilities and will include a proposal for further Commission action. Also, at the expiration of the waiver period, each FNGA member will have until December 31, 2011, to complete all necessary activities to return to compliance with the current rule provisions.

We find that FNGA and its members' proposal meets the underlying purpose of Section 368.05(2), F.S., and FNGA and its members have demonstrated that they will suffer a substantial economic hardship if the provisions of Rule 25-12.045(1)(b) and (c), F.A.C., are strictly applied. Accordingly, FNGA's petition for a temporary rule waiver is granted until December 31, 2009.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that Florida Natural Gas Association's petition for temporary waiver of Rule 25-12.045 (1)(b) and (c) , F.A.C., is granted until December 31, 2009. Upon expiration of the waiver period, each FNGA member must be in compliance by December 31, 2011, if the waiver is not extended. It is further

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 Office of Commission Clerk, 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 in the event this Order becomes final, this docket shall be closed.

By ORDER of the Florida Public Service Commission this 8th day of June, 2007.



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ANN COLE  
Commission Clerk

( S E A L )

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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 Office of Commission Clerk, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on June 29, 2007.

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.