

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

IN RE: Adoption of Rules 25-7.047,)
 25-7.0471, 25-7.0472 and 25-7.0473,)
 F.A.C., regarding territorial)
 agreements and disputes for natural)
 gas utilities.)
 _____)

DOCKET NO. 900532-GU

ORDER NO. 24138

ISSUED: 2/19/91

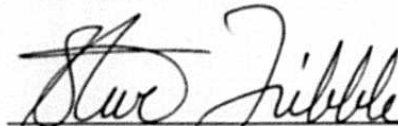
NOTICE OF ADOPTION OF RULES

NOTICE is hereby given that the Commission, pursuant to section 120.54, Florida Statutes, has adopted 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 with changes.

The rule was filed with the Secretary of State on February 5, 1991, and will be effective on February 25, 1991. A copy of the relevant portions of the certification filed with the Secretary of State is attached to this Notice.

This docket is closed upon issuance of this notice.

By Direction of the Florida Public Service Commission, this
 _____ 19th day of _____ FEBRUARY _____, 1991.



 STEVE TRIBBLE, Director
 Division of Records & Reporting

(S E A L)

MCB

adp7047.cp

DOCUMENT NUMBER-DATE

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FPSC-RECORDS/REPORTING

CERTIFICATION OF
PUBLIC SERVICE COMMISSION ADMINISTRATIVE RULES
FILED WITH THE
DEPARTMENT OF STATE

I do hereby certify:

/X/ (1) The time limitations prescribed by paragraph 120.54(11)(a), F.S., have been complied with; and

/X/ (2) There is no administrative determination under section 120.54(4), F.S., pending on any rule covered by this certification; and

/X/ (3) All rules covered by this certification are filed within the prescribed time limitations of paragraph 120.54(11)(b), F.S. They are filed not less than 28 days after the notice required by subsection 120.54(1), F.S., and;

/ (a) And are filed not more than 90 days after the notice; or

/ (b) Are filed not more than 90 days after the notice not including days an administrative determination was pending; or

/X/ (c) Are filed within 21 days after the adjournment of the final public hearing on the rule; or

/ (d) Are filed within 21 days after the date of receipt of all material authorized to be submitted at the hearing; or

/ (e) Are filed within 21 days after the date the transcript was received by this agency.

Attached are the original and two copies of each rule covered by this certification. The rules are hereby adopted by the

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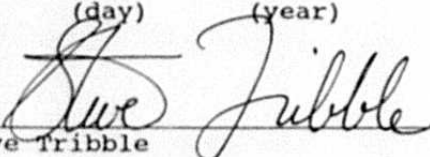
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undersigned agency by and upon their filing with the Department of State..

<u>Rule No.</u>	<u>Specific Rulemaking Authority</u>	<u>Law Being Implemented Interpreted or Made Specific</u>
25-7.047	366.05(1)	366.04, F.S.
25-7.0471	366.05(1)	366.04, F.S.
25-7.0472	366.05(1)	366.04, F.S.
25-7.0473	366.05(1)	366.04, F.S.

Under the provision of paragraph 120.54(12)(a), F.S., the rules take effect 20 days from the date filed with the Department of State or a later date as set out below:

Effective: _____
(month) (day) (year)



Steve Tribble

Director, Division of Records & Reporting
Title

(S E A L)

Number of Pages Certified

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LEWIS & CLARK
TALLAHASSEE, FLORIDA

1 25-7.047 Territorial Agreements and Disputes for Natural Gas
2 Utilities - Definitions.

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

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

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

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

16 Specific Authority: 366.05(1), Florida Statutes.

17 Law Implemented: 366.04, Florida Statutes.

18 History: New.

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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 shall consider,:

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

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

25 (c) the reasonable likelihood that the agreement will

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1 eliminate existing or potential uneconomic duplication of
2 facilities.

3 (d) other relevant factors that may arise from the
4 circumstances of a particular case.

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

7 Specific Authority: 366.05(1), Florida Statutes.

8 Law Implemented: 366.04, Florida Statutes.

9 History: New
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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 shall
15 consider,:

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 9. Other costs that may be relevant to the
16 circumstances of a particular case.

17 (d) Other costs that may be relevant to the circumstances of
18 a particular case.

19 (e) customer preference if all other factors are substantially
20 equal.

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

23 Specific Authority: 366.05(1), Florida Statutes.

24 Law Implemented: 366.04, Florida Statutes

25 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: 366.05(1), Florida Statutes

16 Law Implemented: 366.04, Florida Statutes

17 History: New

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Rules 25-7.047
25-7.0471
25-7.0472
25-7.0473
Docket No. 900532-GU

SUMMARY OF RULE

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 shall consider in resolving territorial disputes. Proposed Rule 25-7.0473 provides for customer participation in territorial agreement and dispute proceedings.

SUMMARY OF HEARINGS ON THE RULE

At its regularly scheduled agenda conference on January 1991, the Commission reviewed and considered the comments that were filed on proposed Rules 25-7.047, 25-7.0471, 24-7.0472, and 25-7.0473, Florida Administrative Code, regarding territorial agreements and disputes for natural gas utilities. The Commission decided not to change its proposed rules in response to the City of Gulf Breeze's comments that the Commission should not involve itself in the territorial agreements and disputes of natural gas utilities. The Commission is required by law to oversee and control territorial agreements and disputes.

In response to informal comments filed by staff of the Joint Administrative Procedures Committee, the Commission changed the

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language of proposed Rules 25-7.0471(2) and 25-7.0472(2) to more specifically inform those affected by the rules of the factors it will consider when approving territorial agreements or resolving territorial disputes between natural gas utilities. To preserve the discretion the legislature has granted the Commission to respond to all issues that may arise in the context of a particular case, the Commission has added language to the rules that states that the Commission will also consider "other relevant issues that may arise from the circumstances of a particular case."

FACTS AND CIRCUMSTANCES JUSTIFYING THE RULE

In 1989 the Florida Legislature explicitly recognized the Commission's inherent authority to approve territorial agreements and resolve territorial disputes among natural gas utilities, Section 366.04(3) and (4), Florida Statutes (1989). To implement that explicit authority, and to codify existing Commission policy, the Commission proposes these new rules.

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