

Florida Public Service Commission  
Fletcher Building  
101 East Gaines Street  
Tallahassee, Florida 32399-0850

**M E M O R A N D U M**

May 30, 1991

**TO:** DIRECTOR, DIVISION OF RECORDS AND REPORTING

**FROM:** DIVISION OF APPEALS (BROWN) *MCB*  
DIVISION OF LEGAL SERVICES (VANDIVER) *[Signature]*  
DIVISION OF ADMINISTRATION (WARD) *[Signature]* *CRBS*  
DIVISION OF ELECTRIC AND GAS (McCORMICK, BULECZA-BANKS)

**SUBJECT:** DOCKET NO. 910031-GU - PROTESTS BY NATURAL GAS UTILITIES  
OF APPLICATION OF REGULATORY ASSESSMENT FEE RULE DURING  
PERIOD OF JANUARY-JUNE 1990.

**AGENDA:** 6/11/91 - CONTROVERSIAL AGENDA - PARTIES MAY PARTICIPATE

**PANEL:** FULL COMMISSION

**CRITICAL DATES:** NONE

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**CASE BACKGROUND**

In July of 1990, when the investor-owned gas utilities paid their regulatory assessment fees for the period covering January through June of 1990, five companies adjusted the fees paid to reflect the change in the assessment rate that had become effective in April of 1990. That is, they paid assessment fees at the rate of one-eighth of one percent of gross operating revenues for January through April, and three-eighths of one percent for May and June.

In August, the staff sent a letter to those utilities advising them that their assessment fee payments should have been calculated at the three-eighths of one percent rate for the entire January to June period. Staff also assessed a penalty and interest for failure to pay the amounts in question. The utilities protested the application of the three-eighths rate for the entire period and the imposition of the penalty. The Commission staff responded that no penalty or interest would be assessed while the dispute was

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pending. The companies that actively protested the Commission's application of its regulatory assessment fee rule were Peoples Gas System, Inc., Miller Gas Company, St. Joe Natural Gas Company, City Gas Company of Florida, and Florida Public Utilities Company.

On April 19, 1991 the Commission issued procedural Order No. 24394 setting the protest for an informal hearing and permitting the investor-owned gas utilities the opportunity to file briefs on the following issue:

Should the January-June 1990 regulatory assessment fees due from the investor-owned natural gas utilities be calculated at the rate of 3/8 of one percent of gross operating revenues for the entire six-month period?

The utilities' briefs were scheduled to be filed by May 20, 1991, but in the intervening period the protesting utilities and staff reached a satisfactory resolution of the dispute, and the utilities have withdrawn their protests. No briefs have been filed in the case.

#### DISCUSSION OF ISSUES

ISSUE 1: Should the Commission close this docket?

RECOMMENDATION: Yes. The Commission should close this docket because the utilities and the staff have resolved the dispute and the utilities have withdrawn their protest of the Commission's application of its regulatory assessment fee rule.

STAFF ANALYSIS: After the Commission issued its procedural order that set the utilities' protest for an informal hearing and provided the utilities the opportunity to file briefs delineating their objections to the Commission's action, the utilities initiated discussions with staff to resolve the dispute. With the understanding that the utilities may use the same true-up methodology to account for the increased regulatory assessment fee rate in the purchased gas cost recovery docket that was used in the conservation cost recovery docket, and with the understanding that staff would not pursue assessment of penalties for late payment of the disputed amounts, the utilities have either formally withdrawn their protest or not filed briefs in the case. (Attachment 1).

Of the five utilities that actively protested the Commission's application of its regulatory assessment fee rule, two paid the contested amounts under protest and three withheld payment. As of



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the date of this recommendation all utilities have now paid the full amount of their regulatory assessment for January to June, 1990. Those utilities that paid the fees under protest also paid the penalty charges and they will be entitled to a refund of those amounts. Staff will follow up on the specific amounts due from or to the utilities on an individual basis.

In view of the fact that the utilities have withdrawn their protest of the Commission's application of its regulatory assessment fee rule for January through June of 1990, staff recommends that the Commission issue its order acknowledging withdrawal of the protest and closing this docket.

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