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October 7, 1996

HAND-DELIVERED

Blanca S. Bayo, Director
Division of Records and Reporting
Gunter Building
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0870

Re: Unbundling of Natural Gas Services
Docket No.: 960725-GU

Dear Ms. Bayo:

Enclosed for filing and distribution are the original and fifteen copies of Comments of Florida Industrial Gas Users in the above docket.

Please acknowledge receipt of the above on the extra copy enclosed herein and return it to me. Thank you for your assistance.

Yours truly,

John W. McWhirter, Jr. / JAM

John W. McWhirter, Jr.

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DOCUMENT NUMBER-DATE

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EPSC-RECORDS/REPORTING

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Unbundling of)
Natural Gas Services)
)
)
_____)

Docket: 960725-GU
Filed: December 9, 1996

COMMENTS OF FLORIDA INDUSTRIAL GAS USERS

GENERAL COMMENTS

The Florida Industrial Gas Users are generally interruptible customers of Local Gas Distribution Companies (LDC's). Many are presently benefiting from FERC Order 636 and LDC tariffs which afford them direct access to producers. Their experience has made them strong proponents of a competitive market place and opponents to propositions which create barriers to customer choice. They have been able to negotiate capacity release agreements, transportation contracts and operational balancing agreements with LDC's that have been working satisfactorily for over two years under a broad spectrum of conditions. The following comments reflect the operating experience of customers presently engaging in an evolving competitive market place.

FIGU does not endorse "deregulation" that might result in unregulated monopoly control of natural gas pipeline systems. Continued regulation is required to:

1. govern LDC rates and service with respect to pipeline capacity.
2. mediate and adjudicate customer complaints.
3. maintain surveillance of LDC's to ensure open pipeline and information access.
4. eliminate artificial barriers to customer choice.

The biggest potential problem faced by the interruptible gas transportation customer of the LDC's, is the prospect that gas the customer owns may be confiscated and its business disrupted to provide back up and no notice service to meet short falls in deliveries required by firm customers.

Interruptible rates are designed in consideration of a customer's agreement to surrender pipeline capacity to meet the demands of other customers. There is no currently approved mechanism to justly compensate the interruptible customer for confiscation of gas it owns when this gas is taken for the benefit of others.

The interruptible customer has no contractual relationship with those who take its gas, unless it is taken by the LDC. The LDC should have a contractual relationship with every person using its pipelines and ancillary services.

LDC's purchase firm interstate pipeline capacity to serve its' firm customers. As part of the unbundling process when firm sales customers become firm transportation customers they should be obligated to take the interstate pipeline capacity. This will insure that they will continue to receive firm gas service. It will also avoid stranded LDC investment.

OBLIGATION TO SERVE / SERVICE OFFERINGS

1. Should the Local Distribution Company (LDC) be required to be the supplier of last resort?

The question of need. The universal service concept which may be appropriate for government controlled education, indigent medical care and emergency telephone service is not required in Florida for gas service. Gas companies which compete at all levels with the electric company should not offer "lifeline" rates so they can compete with electric suppliers. The converse is equally true.

Indigent consumers can be protected through the established state welfare system set up for that purpose without the necessity of creating a substructure within the gas distribution company to invade the privacy of its customers to screen their economic need and the ability of other customers to support the needy.

The question of distribution system access and gas supply. LDC's own pipes which constitute the local natural gas distribution system. For the most part the pipes are located in public right of way for which the gas LDC's have a franchise from the local government. In this aspect of their business they perform a non competitive delivery service.

LDC's also perform a merchant function. *They sell gas.*

With customer choice most customers with relatively low consumption will probably choose to continue to buy gas from the LDC. Until public attitude changes and until there is viable access for all customers to a reliable supply of gas the LDC's should be required to maintain an adequate gas supply and reserve margin of backup gas and interstate pipeline capacity to meet the fluctuations in demands of its firm customers.

The LDC pipeline distribution system will continue to be a delivery system natural monopoly. Its market power in the sale of gas will constitute *de facto* monopoly power. Under these circumstances as a practical matter the LDC will necessarily be the gas supplier of last resort. It is entitled to continued state protection in the recovery of its investment and costs dedicated to public service. Customers likewise will be entitled to continued state protection in the form of price

and service regulation.

2. Should the LDC be required to offer transportation service to all classes of customers?

An unbundled LDC should open its distribution system to all credit worthy suppliers and customers. Until it is evident that there is an accessible open market of reliable gas suppliers the LDC should be required to offer sales gas as well as transportation for those customers requesting it. The Commission should promote open access.

3. Should the LDC have the obligation to offer backup or no-notice service for firm transportation customers?

Yes. But LDC gas merchants should demand demonstrated evidence that the customer has backup gas supply and interstate pipeline capacity or charge firm transportation customers for back up service.

Backup service should come from LDC reserve margin. LDC's should be prohibited from confiscating interruptible customer's gas to provide backup service to other customers, unless these customers have agreed to this use of their gas and are justly compensated for the taking.

4. Should the LDC be relieved of its obligation to transport if the customer fails to secure firm supplies or backup service?

Yes, LDC's should not be required to back up transportation customers gas supply which fails to reach the city gate. If customer's nominations are out of balance with their immediate consumption as they will be on a daily basis, an operational balancing agreement can be customized under the supervision of the Commission to meet the unanticipated circumstances of service.

5. Should the LDC be allowed to use transportation customers' gas in critical need situations?

LDC's have the power of eminent domain and may confiscate customer's gas upon the payment of just compensation. Curtailment tariffs should be subject to Commission review for reasonableness if parties can't reach a satisfactory agreement.

In critical need situations where there is no available LDC distribution system capacity interruptible customers should not be paid for LDC capacity diverted to other customers, but should be reimbursed for FGT pipeline capacity that was used to supply other customers. If interruptible customers' gas is taken at other times interruptible customers should be paid for gas, interstate pipeline capacity and LDC capacity.

6. Should LDC's be allowed to curtail gas service to a firm

transportation customer who has demonstrated that their gas supply arrived at the LDC city gate?

No.

7. Should the LDC be allowed to require transportation customers using gas for "essential human needs" to contract for standby service?

Yes. **All firm** customers should pay for standby service or demonstrate that they have provided for such supply independently. There is no reason single family homes should provide the backup heating service for apartment buildings.

8. Should the LDC be required to offer customers the ability to combine unbundled and bundled services?

Yes as long as LDC's retain the merchant function. To do otherwise would discriminate against transportation customers and be a barrier to customer choice. Safeguards can be established to prohibit customers from using the combined service to avoid no notice service payments or balancing penalties.

9. Should the LDC's be permitted to stream gas on a competitive basis using a negotiated rate? (AGDF)

Streaming becomes obsolete when system is fully unbundled. During the transition it should be permitted, but Commission should insure that streaming is not a device used to engage in predatory pricing to restrain competition. To protect other customers streaming supplies should be outside PGA recovery clause as recommended by AGDF

10. Should all LDC's be subject to unbundling? (Chesapeake Utilities)

If customers seek choice, LDC should have burden of showing that unbundled service is not justified.

11. Should all LDC services be performed pursuant to filed tariffs and should any desired rate flexibility be effected under a filed rider? (CNB Olympic)

Yes

12. Should the LDC's have the right to unilaterally terminate transportation agreements without cause? (CNB Olympic)

No

13. Should LDC's be required to "act reasonable" and should "sole discretion provisions in the tariffs read "reasonable discretion?" (CNB Olympic)

Yes

14. Should the LDC be allowed to require a waiting period to transportation customers wanting to return to bundled service?

No, this could be used as a weapon to impose a chilling effect on customer choice. An open market contemplates fluctuation in prices and customers having the opportunity to choose the least expensive supply.

On the other hand direct transportation customers and aggregators shouldn't be allowed to "game" the system by engaging in the spot market when it is low and jumping to the LDC's long term contracts when the spot market price is high. This is the corollary to the streaming issue.

The waiting period remedy is too harsh if it might put a customer out of business as a result of aggregator antics. While the market system is evolving FIGU recommends that firm transportation customers be required to take pipeline capacity when they move to transportation to avoid imposing the cost of excess reserve margin on other LDC customers. This would cure the capacity problem. As to gas the LDC should be allowed to impose a waiting period if the transportation customer switched back to the LDC more than twice in the same twelve month period. If the LDC imposes a waiting period it must guarantee that other customers are not required to pay more as a result of the LDC's election to restrict its sales.

15. Should the price for transportation service be based on cost of service principles?

Yes

BALANCING

16. Should the LDC be required to file balancing tariffs that establish a period when transportation customers can balance deliveries into and out of the utility's system?

Yes. The period should be monthly unless good cause can be shown for a shorter period. The administrative cost of shorter balancing periods would unnecessarily raise prices to captive customers.

17. Should the LDC be allowed to issue Operational Flow Orders and impose special volume conditions and/or balancing provisions in case of system emergencies and capacity constraints?

Yes, in critical need situations only. Otherwise such

orders could be used to frustrate customer choice or to substitute interruptible customer gas for the LDC's obligation to supply back up and no notice service to its firm customers when gas is available, but the price is high.

18. Should the LDC be allowed to impose penalties when a customer fails to balance deliveries and withdrawals within an established time frame?

Yes, if it is damaged by customer's actions. If LDC is not a gas merchant, but only a transportation conduit, some customers could be injured by the actions of other customers. The LDC is the logical entity to monitor flows and impose charges to compensate injured parties.

Customers wishing to avoid penalties should be allowed to engage in customer pools to benefit from mutual diversity.

19. Should the LDC be required to institute a tolerance range for purposes of setting the threshold before an Operational Flow Order is issued?

Yes, subject to its back up ability and Commission oversight.

20. Should balancing obligations, costs and penalties be based on a "no harm/no foul" principle?

Yes

21. Should the LDC be allowed to impose metering requirements on the transportation customers to ensure the LDC remains in balance with the pipeline?

Yes

22. Should the LDC be allowed to vary the metering requirements between classes?

Yes, but LDC should not be allowed to require a more expensive meter than required for reasonable monitoring purposes.

23. Should the LDC be required to institute:

- | | |
|-----------------------------------|---------------------|
| ● hourly flow limitations | NO |
| ● mid-day nominations | NO |
| ● no notice service | YES |
| ● monthly cash out provisions | NO Monthly book out |
| ● transportation nomination rules | YES |
| ● delivery point allocation rules | YES |

24. Should the LDC's be permitted to establish non-performance penalties to be levied on suppliers, marketers, or brokers who create imbalance situations for the LDC? (AGDF)

Yes, provided actions are not designed to frustrate customer choice.

25. Should each LDC have the discretion to establish nomination and balancing procedures? If so, should third party suppliers be required to abide by these procedures? (City Gas)

Yes, the LDC should work with its customers to develop win/win balancing procedures. Aggregators and other representatives should be bound by these procedures.

26. Should shippers erring on the side of caution and being out of tolerance in the "right" direction and that "help" the LDC's system during operational controls be rewarded? (CNB Olympic)

Yes with prior agreement. Shouldn't be penalized for being out of tolerance if LDC is not damaged and shippers aren't gaming the system.

AGGREGATION

27. Should LDC's be required to have aggregation tariffs?

Smaller customers will not be able to benefit from competition unless aggregation is in place. The Commission should require aggregation tariffs if customers complain and show that aggregation is feasible.

28. Should capacity releases to aggregators be subject to recall to correct any mismatch between customer load and assigned capacity outside a determined tolerance?

Obviously this question contemplates a situation in which more FGT capacity has been released to the aggregator than the aggregator requires to accommodate the customers it is serving. The LDC should know the aggregated customers' historic consumption patterns at the time the aggregation program is established and assign pipeline capacity reservations accordingly. If the LDC has charged the full price for the released capacity it shouldn't be able to recall it to keep the aggregator from using it to serve other markets in the state.

If the LDC needs the capacity to provide a reserve margin for its firm customers it shouldn't sell it, by the same token it shouldn't create a stranded investment in capacity reservations it doesn't need for standby service for firm customers on its system. Customers should not be required to pay for excess capacity just to frustrate an open market.

29. Should aggregators become the customer of the LDC, rather than the individual customer whose loads are being aggregated? (AGDF)

Aggregators using LDC capacity should be liable to LDC and customer for failure to perform. Commission should consider registration of aggregators.

30. Do LDC's tell suppliers, marketers, and brokers how much gas to deliver into LDC's system for aggregation customers, or do the suppliers, marketers, and brokers tell the LDC how much gas they are delivering? (a) How are imbalances handled and (b) Who has financial responsibility? (AGDF)

LDC's have better knowledge of customer load patterns and general system data. LDC's are in a better position to provide this information. Aggregators should have a forum in which to complain if they suffer discrimination or unfair competitive practice. The Commission is the logical forum for this purpose.

(a) The balancing agreement should be an agreement between the aggregator and the LDC for the benefit of the aggregated end users. The Aggregator should have primary responsibility to the LDC for balancing.

(b) The aggregator should bear cost and allocate the proper charges to end users.

31. Should aggregators be able to order transportation service by phone or simply ask their agents to take care of the details of arranging service?" (CNB Olympic)

The customer should confirm its relationship with an aggregator to the LDC in writing. After proper documentation is in place establishing agency agreement streamlined communication procedures between the aggregator and the LDC are in order.

32. Should aggregators be afforded the same load management tools used by the LDC in its capacity as supplier of bundled sales service: (CNB Olympic)

- ◆ hold the upstream capacity of their customers, if asked to do so **YES**
- ◆ receive and pay their customer's transportation bills **YES**
- ◆ balance all their customers usage as one pool **YES**
- ◆ choose to have all LDC penalties and operational orders direct at their pools, rather than their customers **YES**
- ◆ aggregate any collection of customers **YES**
- ◆ aggregate upstream capacity for the purpose of submitting

one city gate nomination for their customers **YES**

MARKETERS AND AFFILIATED MARKETERS

33. Should the LDC's be allowed to charge marketers penalties for any daily over or under deliveries?

Yes.

34. Should the LDC be required to develop eligibility policies/standards to evaluate potential marketers?

Yes, provided the standards are not used as a barrier to an open market.

35. Should the Commission initiate rule-making to establish guidelines for utilities with marketing affiliates?

Yes to insure fair competition.

36. Should the LDC's be able to establish creditworthiness standards to ensure the financial capability of suppliers, marketers, and brokers? (City Gas)

Reasonable standards are acceptable based on magnitude of activity by the marketers, suppliers and brokers and the probability of damage to the LDC.

STRANDED INVESTMENT

37. Should the LDC be allowed to require transportation customers to take capacity held by the LDC?

Yes, firm transportation customers should be required to take the interstate pipeline capacity and appropriate reserve margin of capacity to avoid stranded investment.

When capacity is transferred to interruptible transportation customers subject to recall the LDC shouldn't be allowed to impose full price.

Long time customers shouldn't be required to take most expensive capacity.

38. Should the LDC be allowed to require marketers to pay the maximum rate for capacity purchased from an LDC?

Depends upon the customer mix of their end users. Firm customers should be required to take firm capacity.

39. Should the LDC be allowed to require an exit fee payment when a customer chooses to use third party capacity?

An exit fee should not be necessary for the following reasons.

If a firm customer is required to take the capacity reserved for that customer there will be no need for an exit fee nor concern about third party purchases stranded investment it is avoided by the transfer of capacity.

If capacity is released subject to recall because it is needed for reserve margin it should be priced comparably to the spot market price for such capacity offered by third parties. There is no stranded investment because the price differential is appropriately allocated to the reserve margin retained for bundled customers.

If the LDC has more capacity than it needs for a reserve margin there is no stranded investment because the capacity is being held for some purpose other than to meet the needs of current customers and should not be charged to them.

40. Should the LDC be required to make permanent relinquishments of unneeded capacity at max rates to lessen stranded capacity costs?

As to the pricing of capacity. Pipeline capacity is priced to burden new demand and grandfather old demand. When the customer chooses to transport it should pay a price consistent with the timing of its demand. The Commission should provide a forum for resolving disputes.

As to the relinquishment of capacity. LDC's should be able to charge current customers for a reasonable reserve margin of capacity on the FGT pipeline. If a firm customer which chooses to transport creates an excess reserve margin of capacity for the remaining customers, that customer should be required to take the capacity reserved for that customer's needs as a condition to receiving transportation service on the LDC. This capacity then becomes the customer's capacity without strings. If an interruptible customer has requested the LDC to reserve firm pipeline capacity for it. It should pay the full price for relinquished capacity.

If the LDC reserves the right to recall capacity for its reserve margin the customer should pay the LDC a price similar to the cost of capacity in the secondary market.

41. Should the LDC be allowed to institute a temporary Capacity Realignment Adjustment to recoup the LDC's stranded capacity costs?

Yes if it can prove that the capacity it holds is a reasonable reserve margin to meet the demand of current customers plus the reasonable expectation of the growth in demand from current firm customers.

42. Should the LDC's require interruptible customers to pick up released firm FGT capacity from the native LDC as a prerequisite to transportation service? (CNB Olympic)

See 40

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of Comments of Florida Industrial Power Users has been furnished by U.S. Mail/hand delivery(*) to the following parties of record, this 9th day of December, 1996:

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