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February 19, 1997

Ms. Blanca Bayo
Director, Division of Records and Reporting
Florida Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, FL 32399-0850

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

Dear Director Bayo:

Enclosed for filing are the original and 20 copies of the comments of Enron Capital & Trade Resources in the above referenced matter.

If you require additional information, please contact me.

Sincerely,

Steve Montovano
Director, State Regulatory Affairs
614-792-6030

- ACK _____
- AFA _____cc: Beth Culpepper, Attorney
- APP _____ Cheryl Banks, Chief, Bureau of Gas Regulations
- CAF _____
- CMU _____ Enclosure
- CTR _____
- EAG _____
- LEG 1 _____
- LIN 5 _____
- OPC _____
- RCP _____
- SEC 1 _____
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- OTH _____

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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

**IN THE MATTER OF NATURAL)
GAS UNBUNDLING) DOCKET NO. 960725-GU
)**

These are the comments of Enron Capital & Trade Resources Corp. ("Enron") in response to Staff's question as to whether the Florida Public Service Commission ("Commission") should proceed to further direct the LDCs to unbundle natural gas services.

I.

SUMMARY OF POSITION

The answer to Staff's question as to whether the Commission should proceed to further direct the LDCs to unbundle their natural gas services is an unequivocal "YES." Enron has been an active participant in numerous proceedings throughout the country where the issue of "life after FERC Order No. 636" has been discussed. Enron firmly believes that further unbundling and the resulting competition will bring the highest level of service at the best possible price to all natural gas customers in Florida and that the Commission should act quickly to permit that competition to develop. Enron suggests that after considering the comments filed in this docket, the Commission should issue an order establishing guidelines for the unbundling of LDC services, mandating the development of tariffs responsive to those guidelines, and establishing a date certain by which those tariffs must be filed.

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II. ARGUMENT

A. Unbundling Has Been Achieved Successfully At The Federal Level And In A Number Of State Jurisdictions.

Unbundling of natural gas services can be likened to peeling an onion. With each layer you peel, you may shed a few tears, but the result is so pleasing that you persist. Through the efforts of the FERC this result was realized on the federal level, as the interstate pipeline systems were restructured to such an extent that the pipelines are now common carriers of natural gas and a variety of players have stepped up to provide peripheral services. Storage, gathering and capacity on the interstate pipelines, and the gas commodity are all now available from market participants other than the pipeline. The next logical step is for the unbundling process to proceed to the state level.

California, Connecticut, Illinois, Maryland, New Jersey, New York, Pennsylvania and Wisconsin all have active programs in which small consumers are able to purchase gas from alternative third party suppliers. Additionally, in the majority of these states, regulatory agencies mandated the LDCs in their jurisdictions to unbundle their services. Residential transportation service has also been implemented in Maryland, Missouri, New York, and Ohio and several other states are in the process of examining residential programs. Other LDCs have stated publicly that they wish to exit the merchant function as regulated entities. The major impetus behind the unbundling trend is that more and more consumers are demanding the right to choose alternative suppliers of natural gas.

B. Unbundling as it exists today in Florida does not facilitate the free operation of the competitive market.

Barriers to entry continue to exist in Florida, and these barriers restrict the ability of all consumers to secure gas supplies and services from alternative third party suppliers. True unbundling involves identifying the component services of the LDC (e.g., gas supply,

balancing, storage, interstate transportation, metering, and billing) which can be competitively provided as separate, optional, and cost-based services by unregulated third party suppliers (e.g., pipelines, brokers, marketers, and LDC marketing affiliates). The efforts of FERC provide an excellent illustration of this contrast. The purpose of FERC Order No. 436 was to advance competition, but it did not have the immediate result of creating a competitive market. FERC recognized that if competition were to occur in the interstate gas market, there had to be complete unbundling of pipeline services, including access to pipeline and storage facilities. Hence, Order No. 636 was promulgated to achieve this end.

Analogously, the mere fact that an LDC has a transportation program in place, does not equate to customers having the ability to choose among competing alternative suppliers or to ensure that they are only paying for the services they desire. Enron suggests that the Commission utilize this proceeding to bring uniformity to the restructuring of the Florida gas market and to eliminate the barriers to competition that exist today. Examples of barriers that exist today are:

- 1. Limited Consumer Choice:** In a monopoly structure, there is only one supplier from which consumers can purchase natural gas, the LDC. The theory behind unbundling and establishing a competitive market is that numerous suppliers will enter the market which will provide an opportunity for reduced costs and prices for a multitude of consumers. In reality, this is not what is occurring in Florida today. Thus far, the majority of participation by small consumers in Florida has been limited to “pilot programs.”

Advocates of pilot programs claim that they provide practical experience and assist in determining whether or not all customers would benefit from receiving expanded transportation service options. However, Enron contends that pilot programs are not a necessary interim step towards unbundling. For years, LDCs, commissions, third party suppliers and end-users in many states have been successfully dealing with the operational issues that influence or are affected by unbundling. Relying on the experience gained by those in an unbundled environment is more valuable than relying on pilot programs that

attempt to imitate competition. In fact, pilot programs are contra to unbundling because they oversimplify operational and technical issues rather than tackle them head on. Moreover, pilots are restrictive, distort market results, and give third party suppliers the incentive to cherry pick large, high load factor customers. As an example, the Peoples Gas pilot limits participation to *only* thirty (30) customers per marketer. It is unrealistic to assume that this minimal number of customers can provide any valid or valuable information regarding competition and the marketplace. The end result will only be to limit customer choice and to prolong the move to a truly unbundled and competitive environment.

In most cases, pilot programs are developed unilaterally by the LDC. Therefore, they do not represent a genuine effort to create a workable transportation program that meets the needs of all affected parties. Pilot programs are nothing more than delay tactics used to distort the true benefits of competition. Likewise, the evaluation plans established by LDCs typically exclude third party suppliers and are biased against competition. Third parties must have a legitimate avenue to provide feedback. A pilot that is poorly designed by an LDC is worse than no pilot because they are set up to fail and predispose regulators and consumers against competition.

- 2. Mandatory and Unnecessary Services / Telemetry:** Mandatory and unnecessary services or telemetry restrict consumers' ability to select third party suppliers. For example, if an LDC requires transportation customers to purchase firm upstream capacity (or other services such as balancing, standby, telemetry, etc.) held by the LDC as a precondition to transporting on the LDC's system, then the LDC has, in effect, created a barrier to the sales customer wishing to convert to transportation service. This upstream requirement, and other similar requirements, undermine the concept of unbundling by forcing customers to take services that they do not need as opposed to allowing them to investigate more economical supplies and transportation alternatives.
- 3. Preferential Rates, Terms & Conditions of Service:** LDCs must not be allowed to skew the market by making access on its system more difficult, costly or time consuming for alternative suppliers than for themselves (or their affiliates). Cost-shifting measures, preferential grants of tariff waivers, special rebates, etc. must be prohibited (see Attachment

I). The Commission should ensure that customers have meaningful access to competing suppliers resulting from transportation programs, and not merely access to the services offered by the LDCs.

C. The Availability Of Transportation Service Does Not Ensure That Eligible Customers Have Free Access To Alternative Suppliers.

It is essential for the Commission to realize that unbundling is not accomplished by simply offering a transportation tariff as an alternative to sales service. Enron recommends that the Commission commence a FERC Order No. 636-type restructuring of gas services which would result in unbundled rates and services by the LDC and an unregulated merchant function for the gas commodity. At a minimum the Commission should mandate: no minimum volume threshold for transportation; all customers should be able to choose to buy gas from any provider; gas suppliers should be permitted to aggregate their customers into a pool for nominating, scheduling and other balancing purposes, just as the LDC currently aggregates its customers; automatic meter reading devices would not be required of transportation customers if they were not required of comparably sized sales customers; certain minimum financial requirements should be established for third party suppliers in order to provide some assurance of performance and some financial support for backup supply should the supplier default; and finally, rates for the services rendered by the LDC should be unbundled and cost based. Customers should be able to select the services they want and pay for their transportation service without bearing any of the cost associated with the gas supply function.

D. It Is An Invalid Assumption That Economies Of Scale Will Be Lost As A Result Of Further Unbundling.

Often the assumption is made that economies of scale obtained through LDC aggregation and size will be lost if alternative suppliers cherry pick the market. LDCs are not the only competitors which can offer the advantages of economies of scale. At 8 Bcf of supply daily, Enron sells more gas nationwide than the vast majority of LDCs throughout the country. Moreover, marketers generally purchase gas from a wider range of sources than

LDCs are capable of doing and have numerous tools at their disposal to aggregate gas and serve customers.

E. Unbundling Has Not Been Driven Solely By Marketers And Large To Medium-Sized Industrial Customers.

Some parties to this proceeding may lead the Commission to believe that the “unbundling push” has largely been brought about by the growing demand of large to medium-sized industrial customers. Quite to the contrary, it is being driven by consumers of all sizes, as well as regulatory agencies and alternative suppliers. As consumer awareness increases in the marketplace, the push becomes even stronger as is evident by the recent trend towards consumers petitioning their local elected officials to effectuate changes in the natural gas and electric industries. Although this fact illustrates the level of interest and desire for unbundling and alternative energy choices, Enron feels that the regulatory agency, i.e., the Commission, is the more appropriate vehicle to mandate effective unbundling. With this recognition, the Commission should move forward with further unbundling and further serve as the foundation for the transition to a viably competitive retail gas market in Florida.

III.

CONCLUSION

Enron thanks the Commission for the opportunity to offer these comments and looks forward to continuing its participating in this docket. Enron recommends that the Commission enter an order establishing guidelines for unbundling which include, at a minimum: the establishment of standards of conduct for marketing affiliates of LDCs; the establishment of minimum financial criteria for marketers of gas; no minimum volume threshold for transportation service; no automatic meter reading devices for transportation customers; and the ability to aggregate customers into a pool. A date should be established in the order by which the LDCs must file unbundled tariffs. These tariffs should be developed through a collaborative process with all interested parties participating. Ideally, the new unbundling programs would begin July 1, 1997 in order to

provide consumers with the ability to convert prior to the beginning of the winter heating season.

Finally, Enron would like to suggest that unbundling is an iterative process. We will not achieve perfect unbundling or perfect competition with this proceeding. The Commission may wish to provide for a Phase II in its order in this docket to assure all parties of the Commission's intent to oversee the process and ensure an orderly transition to a competitive world.

Respectfully submitted,



Steve Montovano
Director, State Regulatory Affairs

Attachments

Attachment I

Standards of Conduct For LDC Marketing Affiliates and Internal Merchant Operations

- LDCs must apply any tariff provision relating to transportation service in the same manner to the same or similarly situated persons if there is discretion in the application of the provision.
- LDCs must strictly enforce a tariff provision for which there is no discretion in the application of the provision.
- LDCs may not, through a tariff provision or otherwise, give their marketing affiliates or customers of affiliates preference over non-affiliated gas suppliers or customers in matters relating to transportation service including, but not limited to, scheduling, balancing, metering, storage, standby service or curtailment policy.
- LDCs must process all similar requests for transportation in the same manner and within the same period of time.
- LDCs shall not disclose to their affiliates any information which an LDC receives from (i) a non-affiliated customer or supplier, (ii) a potential customer or supplier, (iii) any agent of such customer or potential customer, or (iv) a marketer or other entity seeking to supply gas to a customer or potential customer.
- LDCs shall not provide leads to marketing affiliates and shall refrain from giving any appearance that the LDC speaks on behalf of its affiliate. If a customer requests information about marketers, an LDC should provide a list of all marketers operating on the system, including its affiliate, but should not promote its affiliate.
- To the extent an LDC provides a marketing affiliate information related to the transportation, sales or marketing of natural gas, including but not limited to LDC customer lists, it must provide that information contemporaneously to all potential shippers, affiliated and non-affiliated, on its system.
- To the maximum extent practicable, an LDC's operating employees and the operating employees of its marketing affiliate must function independently of each other.
- LDCs shall not disclose, condition, or tie their agreements to release interstate pipeline capacity to any agreement by a gas supplier, customer or other third party relating to any service in which their marketing affiliate are involved.

- LDCs and their marketing affiliates shall keep separate books of accounts and records.
- If an LDC offers its affiliate or a customer of its affiliate a discount, rebate or fee waiver for transportation services, balancing, meters or meter installation, storage, standby service or any other service offered to shippers, it must contemporaneously offer the same discount, rebate or fee waiver to all similarly situated non-affiliated suppliers or customers and must file with the Commission procedures that will enable the Commission to determine how the LDC is complying with this standard.
- Neither LDC nor marketing affiliate personnel shall communicate with any customer, supplier or third parties that any advantage may accrue to such customer, supplier or third party in the use of the LDC's services as a result of that customer, supplier or other third party dealing with the marketing affiliate.
- LDCs shall establish a complaint procedure. All complaints, whether written or verbal, shall be referred to general counsel of the LDC. The general counsel shall verbally acknowledge such complaint within five (5) working days of receipt. The general counsel shall prepare a written statement of the complaint which shall contain the name of the complainant and a detailed factual report of the complaint, including all relevant dates, companies involved, employees involved, and the specific claim. The general counsel shall communicate the results of the preliminary investigation to the complainant in writing within thirty (30) days after the complaint was received including a description of any course of action which was taken.

CERTIFICATE OF SERVICE

Docket No. 960725-GU

I HEREBY CERTIFY that a true and correct copy of the foregoing has been served by U.S. Mail
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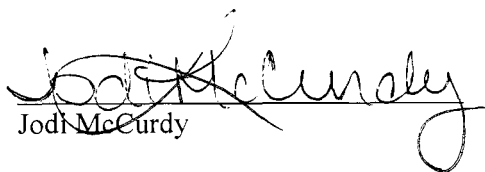
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