

FLORIDA PUBLIC SERVICE COMMISSION  
Capital Circle Office Center @ 2540 Shumard Oak Boulevard  
Tallahassee, Florida 32399-0850

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

April 24, 1997

**TO:** DIRECTOR, DIVISION OF RECORDS AND REPORTING (BAYO)

**FROM:** DIVISION OF ELECTRIC & GAS (MARIN, BULECIA-BANKS, DILLMORE) *then*  
DIVISION OF LEGAL SERVICES (KEATING) *NO RVE* *JDJ*

**RE:** DOCKET NO. 970361-GP - FIVE FLAGS PIPELINE COMPANY - PETITION FOR APPROVAL OF EXISTING FIRM AND INTERRUPTIBLE SYSTEM TRANSPORTATION RATES

**AGENDA:** 05/6/97 - REGULAR AGENDA - TARIFF FILING - INTERESTED PERSONS MAY PARTICIPATE

**CRITICAL DATES:** 60-DAY SUSPENSION DATE: 05/24/97

**SPECIAL INSTRUCTIONS:** S:\PSC\EAG\WP\970361GP.BCM

---

**CASE BACKGROUND**

Five Flags Pipeline Company (Five Flags) is a wholly owned subsidiary of Koch Industries, Inc. Five Flags was originally constructed in 1972 and expanded in 1974. The pipeline operates solely within the State of Florida and is a natural gas transmission company within the meaning of Chapter 368.105, Florida Statutes.

Currently, Five Flags provides natural gas transportation service to one customer, Okaloosa County Gas District (Okaloosa). Okaloosa serves customers in Santa Rosa and Escambia Counties, and is regulated by this Commission for safety only.

Prior to the implementation of the Natural Gas Transmission Pipeline Intrastate Regulatory Act, Chapter 368, Florida Statutes, Five Flags came under the regulation of the FERC as an intrastate natural gas transmission pipeline, and as such, all rates and charges were approved by the FERC. With the implementation of the Natural Gas Transmission Pipeline Intrastate Regulatory Act, Five Flags is now regulated under the jurisdiction of the Florida Public Service Commission (FPSC).

DOCUMENT NUMBER-DATE

04127 APR 24 97

FPSC-RECORDS/REPORTING

DOCKET NO. 970361-GP  
DATE: April 24, 1997

On September 20, 1993, Five Flags filed with the FPSC its petition for approval of initial rates, which were previously approved by the FERC. On November 18, 1993, the FPSC issued Order No PSC-93-1677-FOF-GP, approving Five Flags initial regulated rates. On January 5, 1994, Five Flags filed with the FERC a petition requesting that it be allowed to employ rates on file with the FPSC for transportation on behalf of interstate pipeline companies and/or local distribution companies served by interstate pipeline companies.

On May 31, 1994, the FERC approved the petition and granted an adjustment which permits Five Flags to use rates that are not greater than those approved by the FPSC. As a condition of the May 31, 1994 FERC order, Five Flags must file to obtain a new cost-based determination from the FPSC at least once every three years and file with the FERC a copy of any applicable order of the FPSC no later than 30 days after issuance.

Since the 1993 filing with the FPSC, there has been no change to the contract between Five Flags and its customer.

#### **DISCUSSION OF ISSUES**

**ISSUE 1:** Should the Commission approve Five Flags Pipeline's petition for approval of existing firm and interruptible system transportation rates?

**RECOMMENDATION:** Yes. The Commission should approve Five Flags Pipeline's existing firm and interruptible system transportation rates.

**STAFF ANALYSIS:** Five Flags is requesting that the FPSC approve the existing negotiated rates reflected in its contract. As part of its 1993 filing in Docket No. 930721-GP, Five Flags and its customer filed joint affidavits affirming that neither the company nor the customer had an unfair advantage during the negotiations, and that competition did exist in the markets in which Five Flags operates as required by Chapter 368.105, Florida Statutes. Section 368.105(3), Florida Statutes, provides that:

**Rates charged or offered to be charged by any natural gas transmission company for transactions with other natural gas transmission companies, transportation customers, and industrial, power plant, and other similar large-volume contract**



DOCKET NO. 970361-GP  
DATE: April 24, 1997

customers, but excluding direct sales-for-resale to gas distribution utilities at city gates, unless suspended and modified pursuant to this subsection, are deemed to be just and reasonable and approved by the commission, if both the natural gas transmission company and the customer files an affidavit with the commission that:

(a) Neither the natural gas transmission company nor the customer had an unfair advantage during the negotiations;

(b) The rates are substantially the same as rates between the natural gas transmission company and two or more of those customers under the same or similar conditions of service; or

(c) Competition does or did exist either with another natural gas transmission company, another supplier of natural gas, or with a supplier of an alternative form of energy.

Five Flags notes that there has been no change to the contract for which it seeks rate approval. Five Flags also notes that the affidavits provided with its 1993 filing still adequately represent that neither the company nor the customer had an unfair advantage during the negotiations and that competition did exist in the markets in which Five Flags operates. Because a joint affidavit has been filed on the individually negotiated rates, Staff recommends that the Commission approve Five Flags existing firm and interruptible system transportation rates.

**ISSUE 2:** Should this docket be closed?

**RECOMMENDATION:** Yes. If no substantially affected person files a protest within 21 days of the issuance of the order, the docket should be closed. If a protest is filed within 21 days from the

DOCKET NO. 970361-GP  
DATE: April 24, 1997

issuance of the order, the rates should remain in effect with any increase held subject to refund, pending resolution of the protest.

**STAFF ANALYSIS:** If no substantially affected person files a protest within 21 days of the issuance of the order, the docket should be closed. If a protest is filed within 21 days from the issuance of the order, the rates should remain in effect with any increase held subject to refund, pending resolution of the protest.

**Florida Public Service Commission**

**M. Brad Martin**

Commission Deputy Clerk

Division of Records and Reporting

Fax (904) 413-7118 Phone (904) 413-6770

3/25/97

I spoke with Laura Gassam  
with Koch Pipeline re: 970361 MCD  
info. I informed that MCD official  
address reflects Pace, FL address  
whereas new docket has Houston,  
TX address

Houston people are to call 3/26/97  
to confirm & update which address  
is correct for this docket. Both  
addresses are correct for company  
(904) 994-5586

2500 Howard Frankland Boulevard, Tallahassee, Florida 32304  
www.dcr.fl.gov

Leaving Pace, FL address until  
otherwise instructed.

BM

Per Laura, Nathan Smith no longer -- Mike Atkins is new contact.