

FLORIDA PUBLIC SERVICE COMMISSION
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Tallahassee, Florida 32399-0850

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RECORDS AND
REPORTING

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MEMORANDUM

June 18, 1998

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

FROM: DIVISION OF APPEALS (BELLAK) *RCB*
DIVISION OF ELECTRIC AND GAS (MAKIN, LOWERY, BULECZA-BANKS) *CBH*
DIVISION OF RESEARCH & REGULATORY REVIEW (HEWITT) *CBH*
DIVISION OF AUDITING AND FINANCIAL ANALYSIS (SLEMKEWICZ) *JS DM Tpd*
DIVISION OF ADMINISTRATION (SEWELL) *DM*

RE: DOCKET NO. 971444-GU - PROPOSED RULES 25-7.100, F.A.C., ANNUAL REPORTS; AND 25-7.101, F.A.C., REGULATORY ASSESSMENT FEES FOR NATURAL GAS TRANSMISSION COMPANIES

AGENDA: JUNE 30, 1998 - REGULAR AGENDA - RULE ADOPTION - INTERESTED PERSONS MAY NOT PARTICIPATE

RULE STATUS: MAY BE DEFERRED

SPECIAL INSTRUCTIONS: S:\PSC\APP\WP\971444.RCM

CASE BACKGROUND

At the March 10, 1998 Agenda Conference, the Commission proposed, inter alia, Rule 25-7.101, F.A.C., concerning Regulatory Assessment Fee For Natural Gas Transmission Companies. The proposed rule contained subsections (6)(a) and (6)(b), (7)(a) and (7)(b) concerning requests for extensions of time to pay regulatory assessment fees and penalties for late payment which were similar to statutory provisions in Section 350.113, Florida Statutes, applicable to regulated companies. The companies referenced in Chapter 368 are regulated companies, i.e., intrastate natural gas transmission pipelines.

Though the approach taken in subsections (6)(a) and (6)(b), (7)(a) and (7)(b) represent the Commission's usual approach to extensions of time and penalties with respect to regulatory assessment fees, staff was aware of a technical problem. Chapter 368 is not listed in Section 350.111, F.S., which defines "regulated companies", an omission which is anticipated to be remedied in the next legislative session. Staff therefore relied on its interpretation of provisions in Chapter 368, including

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Sections 368.104 and 368.109, F.S., as a reasonable, though indirect, basis of statutory authority for subsections (6) (a) and (6) (b), (7) (a) and (7) (b) of the proposed rule.

By letter dated April 29, 1998, the staff attorney for the Joint Administrative Procedures Committee raised concern as to the statutory authority for these three rule subsections. The matter was discussed, and JAPC's attorney agreed that staff's interpretation was not unreasonable, but concluded nonetheless that direct, rather than indirect, statutory authority would create a greater "comfort level". Accordingly, staff proposed, and JAPC agreed with, the idea of simply eliminating the four rule subsections and relying on the statutes directly for this year, while steps are taken to add Chapter 368 to the list of "regulated company" chapters in Section 350.111, F.S. The amendment of Section 350.111 will eventually allow implementation of the usual extension of time and penalty provisions with direct statutory authority to do so. In the interim, the statute itself will be sufficient for the Commission to act in the unlikely event of unreasonable delay in payment of the fee.

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DISCUSSION OF ISSUES

ISSUE 1: Should the Commission adopt Rule 25-7.101 with changes consisting of the deletion of subsections (6)(a) and (6)(b), (7)(a) and (7)(b) concerning extensions of time, penalties and interest?

RECOMMENDATION: Yes. The Commission should adopt Rule 25-7.101 with the change that subsections (6)(a) and (6)(b), (7)(a) and (7)(b) concerning extensions of time, penalties and interest are deleted.

STAFF ANALYSIS: During the year prior to amendment of Section 350.111, F.S., relying on the statute directly is the best alternative to reliance on indirect statutory authority which raised the concerns of JAPC.

ISSUE 2: Should Rule 25-7.101 as changed be sent to the Secretary of State and this docket closed?

RECOMMENDATION: Yes. The rule amendments with the changes described should be filed with the Secretary of State.

RCB

Attachment

1
2 25-7.101 Regulatory Assessment Fees

3 (1) As provided in s. 368.109, F.S., each natural gas
4 transmission company shall pay a regulatory assessment fee. The
5 regulatory assessment fee shall be 0.25 percent annually of the
6 natural gas transmission company's gross operating revenue derived
7 from intrastate business, excluding sales of gas for resale to
8 natural gas transmission companies, public utilities that supply
9 gas, municipal gas utilities and gas districts.

10 (2) Regulatory assessment fees are due each January 30 for
11 the preceding 6 month period or any part of the period from July 1
12 until December 31, and on July 30 for the preceding 6 month period
13 or any part of the period from January 1 until June 30.

14 (3) If the due date falls on a Saturday, Sunday, or a legal
15 holiday, the due date is extended to the next business day. If the
16 fees are sent by registered mail, the date of the registration is
17 the United States Postal Service's postmark date. If the fees are
18 sent by certified mail and the receipt is postmarked by a postal
19 employee, the date on the receipt is the United States Postal
20 Service's postmark date. The postmarked certified mail receipt is
21 evidence that the fees were delivered. Regulatory assessment fees
22 are considered paid on the date they are postmarked by the United
23 States Postal Service or received and logged in by the Commission's
24 Division of Administration in Tallahassee. Fees are considered

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CODING: Words underlined are additions; words in
~~struck-through~~ type are deletions from existing law.

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timely paid if properly addressed, with sufficient postage, and postmarked no later than the due date.

(4) Commission Form PSC/ADM 244 (6/98), entitled "Natural Gas Transmission Pipeline Company Regulatory Assessment Fee Return" is incorporated into this rule by reference and may be obtained from the Commission's Division of Administration. The failure of a utility to receive a return form shall not excuse the utility from its obligation to timely remit the regulatory assessment fees.

(5) Each natural gas transmission company shall have up to and including the due date in which to remit the total amount of its fee.

(6) A Regulatory Assessment Fee Return must be completed, signed, and filed even if there are no revenues to report.

Specific Authority: 368.104, F.S.

Law Implemented: 368.109, F.S., 368.111, F.S.

History--New

THE REGULATORY ASSESSMENT FEE RETURN MUST BE FILED ON OR BEFORE **FIELD(2)**

ATTACHMENT

Natural Gas Transmission Pipeline Company Regulatory Assessment Fee Return

STATUS:

_____ Actual Return
 _____ Estimated Return

Florida Public Service Commission

(See Filing Instructions on Back of Form)

FIELD(1)

PERIOD COVERED:

FIELD(3)

Please Complete Below If Official Address Has Changed

FOR PSC USE ONLY

Check# _____

\$ _____ 0601003
 _____ 003001
 \$ _____ P
 _____ 0601003
 _____ 004011
 \$ _____ I

Postmark Date _____
 Initials of Preparer _____

 (Name of Utility) (Address) (City/State) (Zip)

LINE NO.	ACCOUNT CLASSIFICATION	AMOUNT
1.	Gas Service Revenues	\$ _____
2.	Other Operating Revenues	_____
3.	Other Gas Revenues	_____
4.	TOTAL GROSS REVENUES	\$ _____
5.	Less:	
6.	Sales For Resale To Natural Gas Transmission Companies, Public Utilities That Supply Gas, Municipal Gas Utilities, and Gas Districts (attach a listing of Companies with amounts) (_____)	_____
7.	Revenues Subject To Regulatory Assessment Fee	_____
8.	Regulatory Assessment Fee Rate	_____ .0025
9.	Regulatory Assessment Fee Due (Line 7 x Line 8)	\$ _____

THIS FORM MUST BE COMPLETED AND RETURNED REGARDLESS OF THE AMOUNT OF REVENUES REPORTED

I, the undersigned owner/officer of the above-named vendor have read the foregoing and declare that to the best of my knowledge and belief, the above information is a true and correct statement. I am aware that pursuant to Section 837.06, Florida Statutes, whoever knowingly makes a false statement in writing with the intent to mislead a public servant in the performance of his official duty shall be guilty of a misdemeanor of the second degree.

 (Signature of Utility Official) (Title) (Date)

 (Please Print Name)

Telephone Number () Fax Number ()
 F.E.I. No. _____

PSC/ADMIN 244 (6/98)

THE REGULATORY ASSESSMENT FEE RETURN MUST BE FILED ON OR BEFORE FIELD(2)

Natural Gas Transmission Pipeline Company Regulatory Assessment Fee Return

ATTACHMENT

STATUS:

_____ Actual Return
 _____ Estimated Return

Florida Public Service Commission

(See Filing Instructions on Back of Form)

FIELD(1)

PERIOD COVERED:

FIELD(3)

FOR PSC USE ONLY	
Check# _____	
\$ _____	0601003
	003001
\$ _____	P
	0601003
	004011
\$ _____	I
Postmark Date _____	
Initials of Preparer _____	

Please Complete Below If Official Address Has Changed

(Name of Utility)	(Address)	(City/State)	(Zip)
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LINE NO.	ACCOUNT CLASSIFICATION	AMOUNT
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(Signature of Utility Official)	(Title)	(Date)
(Please Print Name)	Telephone Number ()	Fax Number ()
PSC/ADMIN 244 (6/98)		
F.E.I. No. _____		

FLORIDA PUBLIC SERVICE COMMISSION
Instructions For Filing Regulatory Assessment Fee Return
(Natural Gas Transmission Pipeline Company)

1. **WHEN TO FILE:** This Regulatory Assessment Fee Return and payment must be filed or postmarked:

*On or before July 30 for the six-month period January 1 through June 30, AND
On or before January 30 for the six-month period July 1 through December 31.*

However, if July 30 or January 30 falls on a Saturday, Sunday, or holiday, the Regulatory Assessment Fee may be filed or postmarked on the next business day.

2. **FEES:** Each utility shall pay the currently authorized percentage, as indicated on Line 8 on the reverse side, of its gross operating revenues derived from intrastate business. Gross Operating Revenues are defined as the total revenues before expenses. The currently authorized percentage was implemented by Section 25-7.101(1), Florida Administrative Code.
3. **FAILURE TO FILE BY DUE DATE:** A Regulatory Assessment Fee Return must be completed, signed, and filed even if there are no revenues to report.
4. **FEE ADJUSTMENTS:** The utility will be notified as to the amount and reason for any adjustment. Penalty and interest charges may be applicable to additional amounts owed to the Commission by reason of the adjustment. A utility may file a written request for a refund of any overpayments. The request should be directed to Fiscal Services at the below-referenced address.
5. **MAILING INSTRUCTIONS:** Please complete this form, make a copy for your file, and return the original in the enclosed preaddressed envelope. Use of this envelope should assure a more accurate and expeditious recording of your payment. If you are unable to use the enclosed envelope, please address your remittance as follows:

Florida Public Service Commission

2540 Shumard Oak Boulevard

Tallahassee, FL 32399-0850

ATTENTION: Fiscal Services

6. **ADDITIONAL ASSISTANCE:** If any additional assistance is required in preparing the Regulatory Assessment Fee Return, please contact the Division of Auditing and Financial Analysis at (850) 413-6480 or at the above-referenced address, directing correspondence to the attention of the division.