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NOTICE OF PROPOSED RULE DEVELOPMENT

FLORIDA PUBLIC SERVICE COMMISSION

UNDOCKETED

RULE TITLE: RULE NO.:

CODE OF CONDUCT 25-7.072

PURPOSE AND EFFECT: To ensure that no natural gas utility or marketing affiliate gain an unfair competitive advantage over un-affiliated competitors.

SUBJECT AREA TO BE ADDRESSED: Conduct between a regulated gas utility and its unregulated marketing affiliate.

SPECIFIC AUTHORITY: 350.127(2), 366.05(1), FS

LAW IMPLEMENTED: 366.05(1), FS

IF TIMELY REQUESTED AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD A RULE DEVELOPMENT WORKSHOP WILL BE HELD AT A TIME AND PLACE TO BE ANNOUNCED. THE WORKSHOP REQUEST MUST BE SUBMITTED IN WRITING TO MARLENE STERN, OFFICE OF THE GENERAL COUNSEL, 2540 SHUMARD OAK BOULEVARD, TALLAHASSEE, FL 32399-0850.

Any person requiring some accommodation at this workshop because of a physical impairment should call the Division of the Commission Clerk and Administrative Services at (850) 411-6775 at least 48 hours prior to the hearing. Any person who is hearing or speech impaired should contact the Florida Public Service Commission by using the Florida Relay Service, which can be reached at: 1-800-955-8771 (TDD).

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THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE

DEVELOPMENT IS: Wayne Makin, Division of Competitive Markets and Enforcement, Florida Public Service Commission, 2540 Shumard Oak Blvd., Tallahassee, FL 32399-0862, (850)413-6644.

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

25-7.072 Code of Conduct

(1) Definition. Marketing Affiliate means an business entity, ~~unregulated by the Commission, business entity~~ that is a subsidiary of a gas utility or is owned by or subject to control by the gas utility's parent company, and sells gas at the retail level to a transportation customer on the gas utility's system.

(2) Application of Tariff Provisions. A gas utility will apply tariff provisions relating to gas transportation service in the same manner to similarly situated marketers, brokers, or agents, whether or not they are affiliated with the gas utility. In addition, each ~~a~~ gas utility:

(a) Will not, through a tariff provision or otherwise, give its Marketing Affiliate or its Marketing Affiliate's customers, preference over non-affiliated marketers or their customers in matters relating to: ~~gas transportation or curtailment priority, specifically including the manner and timing of the processing of requests for transportation service,~~

1. Receiving and processing transportation service requests or tariff sales requests from customers

(customer service inquiry employees);

2. Scheduling gas deliveries on the gas utility's system;

3. Making gas scheduling or allocation decisions;

4. Purchasing gas or capacity; or

5. Selling gas to end users behind the city gate.

(b) - 2. No change.

~~(c) Will not share with its Marketing Affiliate any of its employees having direct responsibility for the day-to-day operations of a gas utility's transportation operations, including employees involved in:~~

~~1. Receiving transportation service requests or tariff sales requests from customers (customer service inquiry employees);~~

~~2. Scheduling gas deliveries on the gas utility's system;~~

~~3. Making gas scheduling or allocation decisions;~~

~~4. Purchasing gas or capacity; or~~

~~5. Selling gas to end users behind the city gate, and such employees will be physically separated from the gas utility's Marketing Affiliate.~~

(c)(d) Will charge the Marketing Affiliate the fully allocated costs for any general and administrative and support services provided to Marketing Affiliate.

(d) Will prevent the flow of any type of subsidy or value from the utility to the Marketing Affiliate, for which the Marketing Affiliate does not compensate the utility;

(e) - (h) No Change.

Specific Authority: 350.127(2), 366.05(1), FS

Law Implemented: 366.05(1), FS

History: New 07/23/02, amended.