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CERTIFICATION OF  
PUBLIC SERVICE COMMISSION ADMINISTRATIVE RULES  
FILED WITH THE  
DEPARTMENT OF STATE

I do hereby certify:

(1) That all statutory rulemaking requirements of Chapter 120, F.S., have been complied with; and

(2) There is no administrative determination under subsection 120.56(2), F.S., pending on any rule covered by this certification; and

(3) All rules covered by this certification are filed within the prescribed time limitations of paragraph 120.54(3)(e), F.S. They are filed not less than 28 days after the notice required by paragraph 120.54(3)(a), F.S., and;

(a) Are filed not more than 90 days after the notice; or

(b) Are filed not more than 90 days after the notice not including days an administrative determination was pending; or

(c) Are filed more than 90 days after the notice, but not less than 21 days nor more than 45 days from the date of publication of the notice of change; or

(d) Are filed more than 90 days after the notice, but

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not less than 14 nor more than 45 days after the adjournment of the final public hearing on the rule; or

(e) Are filed more than 90 days after the notice, but within 21 days after the date of receipt of all material authorized to be submitted at the hearing; or

(f) Are filed more than 90 days after the notice, but within 21 days after the date the transcript was received by this agency; or

(g) Are filed not more than 90 days after the notice, not including days the adoption of the rule was postponed following notification from the Joint Administrative Procedures Committee that an objection to the rule was being considered; or

(h) Are filed more than 90 days after the notice, but within 21 days after a good faith written proposal for a lower cost regulatory alternative to a proposed rule is submitted which substantially accomplishes the objectives of the law being implemented; or

(i) Are filed more than 90 days after the notice, but within 21 days after a regulatory alternative is offered by the small business ombudsman.

Attached are the original and two copies of each rule covered by this certification. The rules are hereby adopted by the undersigned agency by and upon their filing with the Department of State.

Rule No.

25-7.072

Under the provision of subparagraph 120.54(3)(e)6., the rules take effect 20 days from the date filed with the Department of State or a later date as set out below:

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Effective: \_\_\_\_\_  
(month) (day) (year)

Blanca S. Bayó  
BLANCA S. BAYÓ, Director  
Division of the Commission Clerk  
and Administrative Services

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Number of Pages Certified

(S E A L)

MKS

1 25-7.072 Code of Conduct

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

7 (2) Application of Tariff Provisions. A gas utility will  
8 apply tariff provisions relating to gas transportation service in  
9 the same manner to similarly situated marketers, brokers, or  
10 agents, whether or not they are affiliated with the gas utility.

11 In addition, each a gas utility:

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

18 1. Receiving and processing transportation service  
19 requests or tariff sales requests from customers  
20 (customer service inquiry employees);

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

23 3. Making gas scheduling or allocation decisions;

24 4. Purchasing gas or capacity; or

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

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~~through~~ type are deletions from existing law.

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1 (b) Will not disclose, or cause to be disclosed, to any  
2 marketer, broker or agent,

3 1. Previously non-public information about a customer  
4 without that customer's prior authorization, or

5 2. Previously non-public information the gas utility  
6 receives through its processing of requests for or  
7 provision of transportation service, unless such  
8 information is contemporaneously made available to  
9 similarly situated market participants;

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

14 1. ~~Receiving transportation service requests or tariff~~  
15 ~~sales requests from customers (customer service inquiry~~  
16 ~~employees),~~

17 2. ~~Scheduling gas deliveries on the gas utility's~~  
18 ~~system,~~

19 3. ~~Making gas scheduling or allocation decisions,~~

20 4. ~~Purchasing gas or capacity, or~~

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

24 (c)(d) Will charge the Marketing Affiliate the fully  
25 allocated costs for any general and administrative and support

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1 services provided to Marketing Affiliate.

2 (d) Will prevent the flow of any type of subsidy from the  
3 utility to the Marketing Affiliate;

4 (e) Will not condition or tie an offer or agreement to  
5 provide a transportation discount to a customer to a requirement  
6 that the gas utility's Marketing Affiliate is involved in the  
7 transaction.

8 (f) Will not give preference to its Marketing Affiliate  
9 regarding temporarily available gas or capacity, but will make  
10 temporarily available gas or capacity available to all similarly  
11 situated market participants;

12 (g) Will maintain its books and records separately from those  
13 of its Marketing Affiliate; and

14 (h) May not affirmatively promote or advertise its  
15 affiliate's relationship with the utility for the purpose of  
16 soliciting subscribership.

17 Specific Authority: 350.127(2), 366.05(1), F.S.

18 Law Implemented: 366.05(1), F.S.

19 History: New 07/23/02, amended.

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**SUMMARY OF RULE**

Subparagraph 25-7.072(c)(1-5) is being deleted and part of that subparagraph is being added to subparagraph 25-7.072(a). Subparagraph 25-7.072(c)(1-5) currently requires that a regulated gas utility not share, with a marketing affiliate, "employees having direct responsibility over the day-to-day operations of the gas utility's transportation operations". A non-exclusive list identifies five specific areas of operation (numbered 1 through 5 in the rule) in which employees may not be shared. Subparagraph 25-7.072(a) provides that a gas utility will not "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". The effect of this change is that a gas utility will no longer be directed on how to handle its employees involved in day-to-day transportation operations. Instead the rule will delineate areas in which preference cannot be shown to marketing affiliates. It will be up to each utility to decide how to ensure it avoids giving preference to its marketing affiliate. The new provision will be 25-7.072(2)(d) and requires that a gas utility

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prevent the flow of any type of subsidy from the utility to the Marketing Affiliate." This provides another mechanism for ensuring that gas utilities and their market affiliates maintain a degree of independence from each other. Here again, it is up to the gas utility to decide how best to ensure this does not happen.

#### SUMMARY OF HEARINGS ON THE RULE

No hearing was requested and none was held.

#### FACTS AND CIRCUMSTANCES JUSTIFYING THE RULE

Codes of conduct are used to establish guidelines governing the interaction between a natural gas utility and its affiliates that market energy and energy-related products or services. The guidelines should prevent the affiliates of natural gas utilities from gaining an unfair market advantage by being subsidized with resources derived from regulated activities, or by engaging in self-dealing or other discriminatory behavior.

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