

State of 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-

DATE: May 4, 2006

TO: Director, Division of the Commission Clerk & Administrative Services (Bayó)

FROM: Office of the General Counsel (Moore) *OTM*
Division of Competitive Markets & Enforcement (Bulecza-Banks) *CBK*
Division of Regulatory Compliance & Consumer Assistance (Fletcher) *JM* *AM*
Division of Economic Regulation (Hewitt) *CBK* *AM* *AM*

RE: Docket No. 060035-GU – Petition to initiate rulemaking to amend Rule 25-7.037, F.A.C., Change in Character of Service, by Associated Gas Distributors of Florida, Inc.

AGENDA: 05/16/06 – Regular Agenda – Interested Persons May Participate

COMMISSIONERS ASSIGNED: All

PREHEARING OFFICER: Deason

CRITICAL DATES: None

SPECIAL INSTRUCTIONS: None

FILE NAME AND LOCATION: S:\PSC\GCL\WP\060035-2.RCM.DOC

Case Background

At its February 28, 2006, agenda conference, the Commission voted to grant the petition of Associated Gas Distributors of Florida, Inc., ("AGDF") to initiate rulemaking to amend Rule 25-7.037, Florida Administrative Code, titled "Change in Character of Service." AGDF's members are investor-owned natural gas local distribution companies ("LDCs") that are subject to the Commission's regulatory jurisdiction under Chapter 366, Florida Statutes. A Notice of Proposed Rule Development offering the opportunity for a workshop if requested was issued on March 6, 2006, and was published in the Florida Administrative Weekly on March 17, 2006. No requests for a workshop were received.

DOCUMENT NUMBER-DATE

03924 MAY-3 8

FPSC-COMMISSION CLERK

Discussion of Issues

Issue 1: Should the Commission propose to amend Rule 25-7.037, Florida Administrative Code?

Recommendation: Yes.

Staff Analysis: Rule 25-7.037, Florida Administrative Code, places limitations and requirements on making changes to the condition or characteristics of gas that would affect a customer's appliances without approval of the Commission and notice to the customer. The rule implements the Commission's jurisdiction under section 366.05(1), Florida Statutes, to insure that a utility provides reasonably sufficient, adequate, and efficient service upon terms as required by the Commission, and to adopt service rules and regulations to be observed by each public utility. The rule has been in effect since 1959.

In its petition to initiate rulemaking, AGDF asked the Commission to amend Rule 25-7.037 as follows:

25-7.037 Change in Character of Service. A utility shall not make
aAny changes in heating value, pressure, specific gravity, gas
composition, or other condition or characteristic of the gas it
delivers which would impair the safe, efficient utilization of the gas
in customers' ~~the customer's~~ appliances ~~shall not be made~~ without
tariff revisions setting forth the changes, the prior approval of the
Commission, and ~~without~~ adequate notice to the customers. Any
such change by the utility shall be accompanied by a general
inspection and adjustment of all appliances that would be affected
thereby to the extent necessary that such appliances ~~the appliance~~
may operate as efficiently and give as good service as was possible
before the change. This shall be done promptly, without direct
charge, and with a minimum of inconvenience to the customer.

The changes to the rule will limit its scope so as not to impose responsibility on an LDC for matters over which it has no control. AGDF asserted in its petition that the quality and other characteristics of the gas received by Florida LDCs from the interstate pipeline are beyond the LDCs' control. Staff agrees with AGDF that only in circumstances where the LDC has control or when the LDC takes some action to change the character of its service should it be held responsible under the rule.¹ As proposed, responsibility to obtain Commission approval and notify the customers will be placed on the utility that makes a change.

A Statement of Estimated Regulatory Cost is attached. (Attachment B.)

¹ For example, when a utility temporarily switches from natural gas to liquefied petroleum gas ("LP") during periods of high demand or in order to make extensive repairs to gas mains. See, Order No. 10702 issued April 7, 1982, in Docket No. 820149-GU.

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Issue 2: Should this docket be closed?

Recommendation: Yes, if no requests for hearing or comments are filed, the rule amendments as proposed should be filed for adoption with the Secretary of State and the docket be closed. (Moore)

Staff Analysis: Unless comments or requests for hearing are filed, the rules as proposed may be filed with the Secretary of State without further Commission action. The docket may then be closed.

1 25-7.037 Change in Character of Service.
2 A utility shall not make aAny changes in heating value, pressure, specific gravity, gas
3 composition, or other condition or characteristic of the gas it delivers which would impair the
4 safe, efficient utilization of the gas in customers' ~~the customer's~~ appliances ~~shall not be made~~
5 without tariff revisions setting forth the changes, the prior approval of the Commission, and
6 ~~without~~ adequate notice to the customers. Any such change by the utility shall be
7 accompanied by a general inspection and adjustment of all appliances that would be affected
8 thereby to the extent necessary that such appliances ~~the appliance~~ may operate as efficiently
9 and give as good service as was possible before the change. This shall be done promptly,
10 without direct charge, and with a minimum of inconvenience to the customer.

11 Specific Authority 366.05 FS.

12 Law Implemented 366.05(1), 366.03 FS.

13 History—Repromulgated 1-8-75, 5-4-75, Formerly 25-7.37, Amended _____.

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

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FLA PUBLIC SERVICE COMM.
OFFICE OF THE
GENERAL COUNSEL

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

DATE: April 14, 2006
TO: Office of General Counsel (Moore)
FROM: Division of Economic Regulation (Hewitt) *B.A. II*
RE: Statement of Estimated Regulatory Costs for Proposed Amendments to Rule 25-7.037, F.A.C., Change in Character of Service; Docket No. 060035-GU

SUMMARY OF THE RULE

Rule 25-7.037, F.A.C, contains the requirement that a regulated natural gas utility may not make any change in the character of the gas it provides for customers' appliances without prior approval of the Commission and adequate notice.

The proposed rule amendments would clarify that a Florida regulated gas utility is only responsible for changes made by itself to the characteristics of the gas it delivers to its customers and is not responsible for the characteristics of the gas it receives from interconnecting interstate pipelines.

ESTIMATED NUMBER OF ENTITIES REQUIRED TO COMPLY AND
GENERAL DESCRIPTION OF INDIVIDUALS AFFECTED

The seven local distribution companies (LDCs) gas utilities would be affected by the proposed rule changes. These gas utilities distribute natural gas through their systems to local users. The gas is obtained from interstate pipelines that are under the jurisdiction of the Federal Energy Regulatory Commission and arrives at their systems with some (but not all) major characteristics measured by the pipeline delivering the gas into the LDC's distribution system.

RULE IMPLEMENTATION AND ENFORCEMENT COST AND IMPACT ON REVENUES
FOR THE AGENCY AND OTHER STATE AND LOCAL GOVERNMENT ENTITIES

There should be no significant implementation or enforcement costs for the Commission. The Commission would benefit by the proposed rule amendments if the changes prevented a possible misinterpretation of the rule in the future that could lead to litigation before the Commission. There should be no impact on agency revenues.

There should be no negative impact on other state and local government entities.

ESTIMATED TRANSACTIONAL COSTS TO INDIVIDUALS AND ENTITIES

The LDCs should have no transactional costs from the proposed changes to the rule. There could be significant benefits if future litigation is prevented by clarification of the rule's intent.

IMPACT ON SMALL BUSINESSES, SMALL CITIES, OR SMALL COUNTIES

There could be a benefit to the LDCs' customers if future litigation costs are prevented. There should be no negative impact on small businesses, cities, or counties.

CH:kb

cc: Mary Andrews Bane
Chuck Hill
Edward Mills
Hurd Reeves