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March 1, 2007

Ms. Blanca S. Bayó
Director, Commission Clerk and Administrative Services
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32309

070135-EG

Re: THE FLORIDA NATURAL GAS ASSOCIATION'S PETITION FOR WAIVER OF THE SERVICE LINE ABANDONMENT PROVISIONS OF RULE 25-12.045, FLORIDA ADMINISTRATIVE CODE

Dear Ms. Bayó:

Enclosed for filing, please find the original and 15 copies of the following the Florida Natural Gas Association's Petition for Waiver of the Service Line Abandonment Provisions of Rule 25-12.045, Florida Administrative Code.

Please acknowledge receipt of this filing by stamping and returning the extra copy of this letter to me. Your assistance in this matter is greatly appreciated. If you have any questions whatsoever, please do not hesitate to contact me.

Sincerely,

Beth Keating

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{TL119254;1}ENCLOSURES

ORIGINAL

BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

In the Matter of:	)	
Petition for Temporary Waiver of	)	Docket No. 070135-EG
Portions of Rule 25-12.045, F.A.C.	)	Filed: March 1, 2007
by the Florida Natural Gas Association.	)	

THE FLORIDA NATURAL GAS ASSOCIATION'S PETITION FOR WAIVER OF THE SERVICE LINE ABANDONMENT PROVISIONS OF RULE 25-12.045, FLORIDA ADMINISTRATIVE CODE

The Florida Natural Gas Association ("FNGA"), pursuant to Section 120.542, Florida Statutes, and Rule 28-104.002, Florida Administrative Code, hereby petitions the Florida Public Service Commission ("FPSC") to waive the service line abandonment provisions of Rule 25-12.045, Florida Administrative Code, which require natural gas companies to plug the service line and remove the meter on any line that has been inactive for two years, and to physically abandon and disconnect such service line after five years of inactivity. In support of this Petition, FNGA hereby states:

1. The name, address, telephone number and fax number of the Petitioner are:

Florida Natural Gas Association
G. David Rogers, Executive Director
P.O. Box 11026
Tallahassee, FL 30302

2. The names and mailing addresses of the persons to whom notices, orders and correspondence regarding this Petition are to be sent are:

Beth Keating
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3. The FNGA is a natural gas trade association representing investor-owned, special gas district and municipal Local Distribution Companies (LDCs), gas transmission companies, gas marketing companies and others affiliated with the natural gas industry. All of Florida's seven investor-owned gas distributors are FNGA members, as are 29 of the 31 special district and municipal distribution systems. Each of FNGA's LDC members are subject to the regulatory jurisdiction of this Commission for gas safety as prescribed in Chapter 368, Part I, Florida Statutes, and Commission Rule 25-12.045, F.A.C. The FNGA LDC member's substantial

interests will be affected by the Commission's disposition of this petition in that the ability to temporarily defer the removal of meters and service lines in support of various LDC reconnection marketing efforts, under terms and conditions agreeable to the FNGA LDC members, will be thereby determined. The FNGA's members are subject to the regulatory jurisdiction of the FPSC.

4. Rule 25-12.045, Florida Administrative Code, applies directly to FNGA's LDC members, and FNGA meets the definition of "person," as referenced in Section 120.542, and defined in Section 120.52(13), Florida Statutes. The FNGA hereby submits this Petition on behalf of its member companies, who would otherwise have standing to Petition the Commission in their own right. Furthermore, the relief requested herein does not require the participation of the individual members of the FNGA, and is consistent and germane to the FNGA's organizational purpose. See Hunt v. Washington State Apple Adver. Comm'n, 432 U.S. 333 (1977)(setting forth three prong test for associational standing).

5. Rule 25-12.045, Florida Administrative Code, provides for the physical abandonment of gas service lines that have been used but become inactive with no prospect for reuse. If there is no prospect for reuse the service line must be physically abandoned and retired within three (3) months of becoming inactive. The Rule also provides that, after two (2) years of inactivity, assuming the prospect of reuse does still exist, an LDC must take one of the following actions with six (6) months:

- Disconnect the service line from all sources of gas and abandon or remove.
- Lock off a service line valve and plug the line to prevent the flow of gas.
- Remove the meter and plug the service line.

After five (5) years of inactivity, an LDC has six (6) months to physically abandon and retire the service line. Sub-sections (2) and (3) of Rule 25-12.045 provide, respectively, detail on the procedures for physical abandonment of a service line and the records of service line stubs that must be maintained by the LDC.

6. Virtually all LDCs elect to remove the meter and plug the service line after two years of inactivity. The cost for an LDC to remove a meter in the field, plug the service line and complete the applicable recordkeeping requirements ranges from approximately $75 to $100 per meter. Physically abandoning a service line involves locating the service line, excavating the line at a point close to the gas main, cutting and capping the service line, restoring the excavation area to its original condition and completing the applicable recordkeeping. Typically, the cost for physical abandonment of a service line ranges from approximately $350 to $500 per service. If pavement cuts or other significant restoration is required the cost will increase. From an investment perspective, reactivating a customer with an existing meter and/or service line represents an LDCs lowest cost customer addition.

7. It is rare for a service line to be deemed by an LDC as having "no prospect for reuse" at the time the service becomes inactive. Occasionally, the discontinuance of service could also dictate immediate abandonment of the service facilities. For example, an industrial facility terminating business with no prospect for a new occupant, or the demolition of a premise could require an immediate abandonment of a service line. However, when a typical residential or commercial service becomes inactive, LDCs generally assume there is prospect for reuse and do not immediately remove the meter or abandon the service line. In most cases the service is reactivated as new residents or business owners occupy a vacant premise and become gas customers. Rule 25-12.045 recognizes the opportunity for LDCs to reconnect an inactive service by providing the two and one-half year meter removal and five and one-half year service abandonment time periods described above. Historically, few services have been reactivated subsequent to these time periods, especially services to residential premises. Residential services account for most of the services cut and capped each year (estimates from several LDCs indicate over 90% of inactive services are residential).

8. Residential customer retention has become a significant challenge for the gas industry. Natural gas has always been an optional service. There are readily available alternative fuels for each gas application. Natural gas has long held an advantage over most alternatives in operating costs and various customer features (cooking temperature control as an example). However, the initial installation cost of gas appliances is usually somewhat higher than electric appliances. Most manufacturers and distributors of heating, water heating, cooking and clothes drying appliances provide both gas and electric models, and are generally indifferent to which models they sell. There are far fewer contractors (mechanical and plumbing) and appliance dealers that offer gas installation services or gas appliances than those supporting electric installations. The natural gas industry's marketing programs have historically focused primarily on getting gas service into new homes. In a state with a booming residential construction market and given the limited marketing resources available to LDCs, that was an appropriate decision. However, as appliances reached the end of their service lives and failed, homeowners frequently have had a difficult time finding qualified service technicians or replacement appliances. More often than not, the gas appliance has been replaced with an electric appliance. At the end of the service life of the homeowner's last gas appliance, the gas service becomes inactive, and in accordance with the Rule, eventually the service is abandoned. Given the turn-over rate in Florida residences, it is not unusual for the resident living in the home at the time of the service cut and cap to have no knowledge that gas service was available to the home.

9. Over the past several years, Florida LDCs have been working independently, and collectively through the FNGA, to establish the marketing and incentive tools needed to improve the retention of existing customers and attract inactive customers back to gas service. The following list outlines some of the actions taken to date:

- A concerted effort is underway to increase the number of contractors qualified to provide gas installations and service. Many LDCs have initiated gas contractor programs, generally patterned on the Southern Gas Association's, Gas Advantage Dealer program. These programs are offering customer referrals, gas equipment and installation training and facilitating increased contacts between contractors, manufacturers and distributors of gas appliances.

- A similar effort to increase the quantity and model selection of gas appliances available at Florida appliance retailers is also underway. A number of LDCs have relationships with national "big box" retailers (Sears, Lowes, Home Depot, for example) as well as local appliance dealers.

- Over the past three years, the FNGA and several investor-owned LDCs have funded a joint gas energy conservation advertising and consumer education program. The statewide "Get Gas Florida" campaign is primarily directed at educating the public about the availability and benefits of gas appliances and features the energy conservation programs offered by many Florida LDCs. Supporting a common "Get Gas Florida" information campaign reduces development costs and enables bulk purchasing discounts that greatly increase the coverage and effectiveness of the program.

- The FNGA Marketing Committee has developed an on-going relationship with several building and appliance industry trade groups to increase their exposure to natural gas appliances, installation techniques and technical information. Among these groups are the Florida Engineering Society, the Florida Chapter of the American Institute of Architects and the Florida Homebuilders Association. In addition, FNGA retains two outside firms that visit dozens of architects and engineers each year to discuss various gas technologies and equipment.

- The FNGA Building Codes and Standards Committee is working with a number of organizations that represent local building code enforcement jurisdictions. FNGA provides technical training on gas installations techniques and emerging technologies (tankless water heaters, desiccant dehumidification, etc.). FNGA sponsored technical seminars on gas topics offer continuing education credits for inspectors (and other industry professionals). The intent is to ensure that gas permitting and inspections are based on factual, technically accurate information, and do not cause undue delays or costs in the appliance installation process. The Building Codes and Standards Committee also actively participates in various Florida and national building code and standard modification processes. As an example, recently the FNGA sponsored a Florida Energy Code modification that ensured gas tankless water heaters received appropriate recognition for the high Energy Factor rating achieved by that technology.

- The FNGA has included several equipment manufacturers (Rinnai, Generac, NovelAir, various hearth products companies, to date) in its trade show appearances, advertising and visits with architects and engineers. FNGA will continue to support efforts to increase the dissemination of information on gas products to consumers, retailers and the building industry.

- Over the past few months Florida Public Utilities (Order No. PSC-06-0749-PAA GU), Peoples Gas System (Order No. PSC-06-0816-PAA-EG), Florida City Gas (Order No. PSC-07-0122-PAA-EG) and Chesapeake Utilities Florida Division (Docket No. 060772-GU, *Order Not Yet Issued at Time of Filing*) have all received approval from the Commission to modify their Energy Conservation Programs. Each of these LDCs filed Residential New Construction, Residential Appliance Retention and Residential Appliance Replacement Programs with identical allowance amounts. Two other investor-owned LDCs (Indiantown Gas Company and Sebring Gas System) are also planning to file identical programs within the next thirty (30) days. One of the primary goals associated with these filings is to improve the industry's ability to retain existing customers and reactivate inactive services. Each of the above LDCs received, or will be seeking, approval from the Commission to increase the allowances provided through their residential Appliance Retention and Replacement Programs. The increased allowance amounts are intended to stop customer loss before the service becomes inactive and encourage consumers occupying residences with inactive gas service facilities to become active gas customers. Ultimately, the best energy conservation measure a homeowner or business can take is to choose gas appliances over electric[1]. Supporting the new allowance amounts, will be an enhanced consumer information effort, including the "Get Gas Florida" campaign. Historically, "Get Gas Florida" campaigns have stopped short of promoting specific conservation allowances, given that the allowances were approved in different amounts for each investor-owned LDC. As each investor-owned LDC is approved to offer the same allowance amounts, the gas industry will be able to deliver a more powerful message through its conservation education programs. The first "Get Gas Florida" campaign with standardized conservation allowance messages is scheduled to begin early this summer. It should also be noted, that several unregulated municipal LDCs also offer conservation or similar allowance programs. Many of these systems are considering the adoption of allowances at the same levels as those approved for investor-owned LDCs.

10. The activities described above represent unprecedented levels of statewide natural gas related marketing and consumer education, much of which is directed toward the retention of existing customers and the reactivation of inactive services. Many LDCs have also developed

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[1] <u>See</u> "Public Policy and Real Energy Efficiency Report," American Gas Foundation (October 2005).

internal marketing programs designed to specifically target inactive service restoration. The FNGA member LDCs believe that significant numbers of inactive services can be reactivated through these marketing efforts, especially given the appliance replacement rebates approved for investor-owned LDCs, and under consideration by some municipal LDCs. The meter removal and service line abandonment provisions in Rule 25-12.045 will require the removal of thousands of meters and the cut and cap of thousands of service lines in 2007. FNGA member LDCs would like the opportunity to attempt to reactivate these inactive services by deferring the meter removal or the cut and cap of the service line for a period of twenty-four (24) months.

11. FNGA seeks a waiver of the requirements in Rule 25-12.045 (1) (b) for any service line that has currently been inactive for a period of two (2) years or reaches such inactive status during 2007. FNGA also seeks a waiver of the requirements in Rule 25-12.045 (1) (c) for any service line that has currently been inactive for a period of five (5) years or reaches such inactive status during 2007. While FNGA is seeking this waiver for only 2 years per line, the FNGA would like this waiver to apply to any and all similar such service lines that reach the two (2) or five (5) year inactive status cut-off mark anytime in the 2007 calendar year. Consequently, FNGA asks that the full length of the temporary waiver extend through December 31, 2009, in order to accommodate any lines that reach the two (2) or five (5) year cut-off mark towards the end of the current calendar year. The proposed waiver period would thus extend for a period of twenty-four (24) months from the date of the Commission Order for inactive service lines currently subject to the Rule's removal or abandonment requirements, or from the date during 2007 when a service line reaches the two or five year inactive dates specified in the Rule, but in no circumstances extend beyond December 31, 2009.[2]

12. LDC's will maintain records, in addition to those specified in Rule 25-12.045 (3), Florida Administrative Code, on the location of each deferred inactive service line and any reported line breaks or other incidents related to the service line. Florida's inactive service line standards are significantly more restrictive than those in other states. In fact, most states do not have meter and service line removal requirements. It is highly unlikely that deferring the abandonment of inactive service lines during the waiver period will substantively impact the safety of the distribution systems.

13. At the conclusion of the proposed waiver period (December 31, 2009), FNGA will consolidate information from each LDC member and submit a summary report to the Commission, within ninety (90) days, describing the results achieved by each LDC for any deferred inactive service line to reactivate such facilities, and including a proposal for further Commission action. Furthermore, at the conclusion of waiver period, if the waiver is not extended, FNGA asks that sufficient time be allowed for LDCs to complete all necessary activities to return to compliance with the current rule provisions. FNGA will include a proposal in its report to the Commission as to what the time period should be.

14. The specific statutory provision underlying Rule 25-12.045, Florida Administrative Code, is Section 368.05(2), Florida Statutes, which provides as follows:

[2] FNGA notes that while all its member LDCs support this Petition for Waiver, certain LDCs may elect to continue to apply the current rule provisions and standards in certain neighborhoods or throughout their territory.

> The commission shall have the power to perform any and all acts necessary or appropriate to the exercise of the authority granted under the provisions of this law. The commission has authority to adopt rules pursuant to ss. 120.536(1) and 120.54 to implement provisions of law conferring duties upon it. The commission may require the filing of periodic reports and all other data reasonably necessary to determine whether the safety standards prescribed by it are being complied with; may require repairs and improvements to the gas transmission and distribution piping systems subject to this law which are reasonably necessary to promote the protection of the public; and may exercise all judicial powers, issue all writs, and do all things necessary or convenient to the full and complete exercise of its jurisdiction and the enforcement of its safety orders and rules adopted pursuant to this law.

The general purpose, as provided in Section 368.03, Florida Statutes, is:

> . . . that the requirements of such rules and regulations shall be adequate for safety under conditions normally encountered in the gas industry, but requirements for abnormal or unusual conditions or all details of engineering and construction need not be specifically provided for or prescribed.

In accordance with Section 120.542(2), Florida Statutes, the FNGA hereby states that the purpose of the underlying statutes will still be fulfilled if the Commission grants FNGA's request for a temporary waiver. As set forth above, the member LDCs will be monitoring and actively endeavoring to re-initiate service on these inactive service lines, as well as compiling information regarding attempts to encourage new service on such lines. Consequently, it is unlikely that any safety issues related to deferral of the service abandonment provisions will arise, because the lines will be closely monitored. Furthermore, if the waiver is not granted, it could result in unnecessary, duplicative costs associated with those lines that are physically abandoned and "capped," but upon which service is subsequently re-initiated as a result of the new marketing programs discussed herein, if such marketing programs prove to be as successful as anticipated.

REQUEST FOR RELIEF

For all the foregoing reasons, the Florida Natural Gas Association requests that the Commission provide the following relief:

1. Grant this petition for temporary waiver of the service line abandonment provisions of Rule 25-12.045, Florida Administrative Code, for a period of twenty-four (24) months from the date of the Commission's Order as it pertains to inactive service lines currently subject to the Rule's removal or abandonment requirements, as well as twenty-four months from the date during 2007 when a service line reaches the two or five year inactive dates specified in the Rule, but in no circumstance to extend beyond December 31, 2009; and

2. Allow a sufficient period of time for FNGA's members to return to compliance with the provisions of Rule 15-12.045, Florida Administrative Code, should the temporary waiver not be extended at the conclusion of the waiver period.

Respectfully submitted this **1st** day of March, 2007.

Florida Natural Gas Association

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