

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-

RECEIVED-FPSC  
APR 26 AM 9:44  
COMMISSION  
CLERK

**DATE:** April 26, 2012

**TO:** Office of Commission Clerk (Cole)

**FROM:** Office of the General Counsel (Cowdery) *SMC*  
 Division of Economic Regulation (McNulty) *WOM*  
 Division of Safety, Reliability & Consumer Assistance (Black, Moses) *MSA*

**RE:** Docket No. 120068-GU – Petition to initiate rulemaking to amend Rule 25-12.045, F.A.C., by Florida Natural Gas Association.

**AGENDA:** 05/08/12 – Regular Agenda – Interested Persons May Participate

**COMMISSIONERS ASSIGNED:** All Commissioners

**PREHEARING OFFICER:** Administrative

**CRITICAL DATES:** May 8, 2012 (30-day statutory deadline extended by Petitioner to this date)

**RULE STATUS:** Proposal Should Not Be Deferred

**SPECIAL INSTRUCTIONS:** None

**FILE NAME AND LOCATION:** S:\PSC\GCL\WP\120068.RCM.DOC

### Case Background

On March 30, 2012, the Florida Natural Gas Association (FNGA) filed a Petition to Initiate Rulemaking (Petition) to amend Rule 25-12.045, Florida Administrative Code (F.A.C.), Inactive Gas Service Lines. FNGA asks that rulemaking be initiated to amend Rule 25-12.045, F.A.C., in order to revise portions of the rule concerning reactivation of inactive gas service lines, as well as to reflect additional provisions regarding monitoring and maintenance of inactive and abandoned service lines.

DOCUMENT NUMBER-DATE  
02623 APR 26 12  
FPSC-COMMISSION CLERK

Docket No. 120068-GU

Date: April 26, 2012

Pursuant to section 120.54(7), Florida Statutes (F.S.), the Commission has 30 days, following the date of filing the Petition, to initiate rulemaking proceedings, otherwise comply with the requested action, or deny the petition with a statement of its reasons for the denial. Thirty days from the date of filing is April 30, 2012. However, FNGA waived the 30 day time period in order to allow the staff recommendation to be heard by the Commission at the May 8, 2012 agenda conference.

FNGA raised other issues in the Petition that are not subject to the section 120.54(7), F.S., 30-day statutory time deadline. Staff is collecting additional information to assist the Commission in making its decision on those issues. A staff recommendation on those issues will be brought to the Commission at a future agenda conference.

This recommendation addresses whether the Commission should grant FNGA's Petition to Initiate Rulemaking. The Commission has jurisdiction pursuant to sections 120.54 and 368.05(2), Florida Statutes.

### Discussion of Issues

**Issue 1:** Should the Commission grant the Florida Natural Gas Association's request to initiate rulemaking to amend Rule 25-12.045, Florida Administrative Code?

**Recommendation:** Yes, the Commission should grant the request to initiate rulemaking to amend Rule 25-12.045, F.A.C. (Cowdery, Moses, Black)

**Staff Analysis:** Rule 25-12.045(1), F.A.C., provides that inactive gas service lines that have been used, but have become inactive without reuse and have no prospect for reuse, shall be retired and physically abandoned within three months. Subsection (1) gives certain options to be taken if a service line has been inactive for two years if there is a prospect for reuse of the line. Subsection (1) also provides that after five years of inactivity, a service line shall be retired and physically abandoned within six months. Subsection (2) of Rule 25-12.045, F.A.C., states that to physically abandon a service line, the operator must disconnect the service line from all sources of gas at the nearest point to the gas main. This subsection also states that where the appropriate governmental authority prohibits cutting pavement, the service line shall be disconnected at the nearest point not under a paved surface.

FNGA is a natural gas trade association representing investor-owned, special gas district, municipal local distribution companies (LDCs), gas transmission companies, gas marketing companies, and others affiliated with the natural gas industry in Florida. Each of FNGA's LDC members is subject to the regulatory jurisdiction of the Commission for gas safety, as prescribed by chapter 368, Part 1, F.S., including Rule 25-12.045, F.A.C. FNGA states that the substantial interests of the LDC members of FNGA are, therefore, directly affected by Rule 25-12.045, F.A.C.

FNGA believes that the subsections (1) and (2) provisions in Rule 25-12.045 have proven to be a significant economic and competitive barrier to restoring service to inactive service lines, while providing no cognizable safety protection beyond that already provided by federal regulations with which the FNGA's member LDCs must comply. FNGA also alleges that current rule provisions are inconsistent with operators' written integrity management plans required by 47 C.F.R. 192.1007. In general, FNGA proposes that Rule 25-12.045, F.A.C., be amended consistent with the relevant federal safety provisions, including those specific to abandoned or inactive lines. FNGA proposes additional amendments concerning monitoring and repair requirements for inactive lines; abandonment; point of abandonment; and retirement of abandoned facilities. A copy of FNGA's suggested revisions to Rule 25-12.045 is appended to this recommendation as Attachment A.

Pursuant to subsection 120.54(7)(a), F.S., any person regulated by an agency or having a substantial interest in an agency rule may petition an agency to amend a rule. The petition is required to specify the proposed rule and action requested. FNGA's Petition meets the requirements of section 120.54(7), F.S. Further, pursuant to section 368.05(2), F.S., the Commission has authority to implement the rule amendments proposed by FNGA. Therefore, staff recommends that the Commission grant FNGA's Petition to Initiate Rulemaking.

Staff notes that a Commission decision to grant the Petition merely begins the rulemaking process. It does not mean that the Commission has proposed or adopted any rule amendment. If the Commission follows staff's recommendation, then a Notice of Rule Development will be issued and a staff workshop will be held. This will allow all interested persons to participate and discuss the potential rule amendment and will give staff an opportunity to collect information that is needed to evaluate the proposed changes. Staff will return at a later date with a recommendation for the Commission on whether to propose the amendment of Rule 25-12.045, F.A.C.

Docket No. 120068-GU

Date: April 26, 2012

**Issue 2:** Should this docket be closed?

**Recommendation:** No. Whether or not the Commission approves staff's recommendation in Issue 1, this docket should remain open to address additional requests for relief raised in the Petition. (Cowdery)

**Staff Analysis:** If the Commission approves staff's recommendation in Issue 1 and initiates rulemaking on Rule 25-12.045, F.A.C., this docket should remain open to proceed with the rulemaking process. In addition, FNGA has raised requests for relief in its Petition which are not subject to the statutory 30-day time deadline and which are not addressed in this recommendation. Whether or not the Commission approves Issue 1, staff intends to bring a recommendation concerning the additional requests for relief to the Commission for consideration at a future agenda conference. Thus, staff recommends that the docket remain open.

1 25-12.045 Inactive Gas Service Lines

2 ~~(1) The following actions shall be taken for inactive gas service lines that have been~~  
3 ~~used, but have become inactive without reuse:~~

4 ~~(a) If there is no prospect for reuse, the service line shall be retired and physically~~  
5 ~~abandoned within three months. One of the following actions shall be taken with regard to~~  
6 ~~customer service lines that are inactive for a period of two years, unless there is a prospect for~~  
7 ~~reuse of the line within the subsequent twelve-month period. Within twelve months, the~~  
8 ~~operator must:~~

9 (a) Provide the valve that is closed to prevent the flow of gas to the customer with a  
10 locking device or other means designed to prevent the opening of the valve by persons  
11 other than those authorized by the operator;

12 (b) Install a mechanical device or fitting that will prevent the flow of gas in the  
13 service line or in the meter assembly; or

14 (c) Disconnect the customer's piping from the gas supply and seal the open pipe ends.

15 (2) Inactive service line shall be monitored and maintained in accordance with all  
16 survey and repair requirements applicable to active customer service lines.

17 (3) Unrecorded inactive service lines discovered in the course of leakage surveillance,  
18 construction, maintenance or inspection of facilities shall be abandoned as soon as practicable  
19 but not more than 120 days after discovery, unless abandonment is otherwise required  
20 consistent with subsection (4) of this Rule.

21 (4) If a building is to be demolished or if there will be a major excavation of property  
22 on which there is an active or inactive service line, and if there is no reasonable prospect of  
23 future use, the service line shall be abandoned at the main. If there is a reasonable prospect of  
24 future use, the service line may be abandoned at the curb or property line and its status shall be

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

1 reviewed annually, at periods not exceeding 15 months. The service line shall be  
2 disconnected either at the main or property line prior to demolition or excavation.

3 (5) If there is no prospect for reuse, the service line shall be physically abandoned and  
4 disconnected from all sources of gas. Companies subject to Chapter 25-7, Florida  
5 Administrative Code, shall retire any physically abandoned facilities.

6 ~~(b) After a service line has been inactive for a period of two years, if there is a prospect~~  
7 ~~for reuse of the line, one of the following actions shall be taken within six months:~~

8 1. ~~Disconnect the service line from all sources of gas and abandon or remove;~~

9 2. ~~A valve on the service line shall be locked in the closed position and the service line~~  
10 ~~plugged to prevent the flow of gas;~~

11 3. ~~Remove the meter and plug the end of the service line to prevent the flow of gas.~~

12 ~~(c) After five years of inactivity, service lines shall be retired and physically~~  
13 ~~abandoned within six months.~~

14 ~~(6)(2) To physically abandon a service line, the operator must disconnect the service~~  
15 ~~line from all sources of gas at the nearest point to the gas main. Where the service line is to be~~  
16 ~~physically disconnected from the gas supply and the appropriate governmental authority~~  
17 ~~prohibits cutting pavement, the service line shall be disconnected at the nearest point to the~~  
18 ~~main not under a paved surface. The stub of the service line, the short section of the~~  
19 ~~remaining service line to the main, shall be disconnected closer to the main or at the main, if at~~  
20 ~~some later date it becomes accessible during normal operations.~~

21 ~~(7)(3) Records must be kept of the size, material and location of all remaining service~~  
22 ~~line stubs. These records must be readily available to personnel assigned to pipeline locating~~  
23 ~~activities.~~

24 *Specific Authority 368.05(2), 366.06 FS. Law Implemented 368.05(2) FS. History-New 9-21-74, Repromulgated*

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

1 *10-7-75, Amended 10-2-84, Formally 25-12.45, Amended 1-7-92*

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

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