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State of Florida

Public Service Commission

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DATE: March 23, 2017

TO: Office of Commission Clerk (Stauffer)

FROM: Division of Economics (Ollila) A.O. EJD PD
Office of the General Counsel (Leathers)

RE: Docket No. 170029-GU – Petition for approval of modifications to extension of facilities and area extension program tariffs, by Florida City Gas.

AGENDA: 04/04/17 – Regular Agenda – Tariff Filing – Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Administrative

CRITICAL DATES: 04/04/17 (60-Day Suspension Date Waived by the Company Until the 04/04/17 Agenda Conference)

SPECIAL INSTRUCTIONS: None

Case Background

On February 2, 2017, Florida City Gas (FCG or Company) filed a petition for approval of modifications to its existing Extension of Facilities (applicable to general tariff extension customers) and Area Extension Program (AEP) tariffs. In accordance with Rule 25-7.054, Florida Administrative Code, (F.A.C.), the tariffs apply to new customers that require an extension of gas distribution facilities in order to receive service. The proposed tariff modifications will allow FCG to require certain general tariff extension customers and AEP customers to commit to receive natural gas service at a defined minimum annual volume and to pay for the minimum annual volume even if it had not been reached, i.e., a take or pay commitment, in order to receive service.

In a February 7, 2017 email (subsequently filed in the docket), FCG waived the 60-day suspension deadline, pursuant to Section 366.06(3), Florida Statutes (F.S.), until the April 4, 2017 Agenda Conference. FCG responded to staff's first data request on March 3, 2017. On March 17, 2017, the Company filed revised responses to staff's data request and revised tariff pages. The proposed tariff pages as revised are contained in Attachment 1 of this recommendation. The Commission has jurisdiction over this matter pursuant to Sections 366.04, 366.05, 366.06, F.S.

Discussion of Issues

Issue 1: Should the Commission approve FCG's proposed tariff modifications, as revised on March 17, 2017, to the Extension of Facilities and AEP tariffs?

Recommendation: Yes, the Commission should approve FCG's proposed tariff modifications, as revised on March 17, 2017, to the Extension of Facilities and AEP tariffs effective April 4, 2017. (Ollila)

Staff Analysis:

Current Extension of Facilities Tariffs

Rule 25-7.054(3), F.A.C., provides that extensions of gas facilities are made at no cost to the customer when the capital investment necessary to extend service is equal to or less than the Maximum Allowable Construction Cost (MACC). FCG's tariff defines the MACC as six times the estimated annual gas revenue less the cost of gas (margin revenues).[1] If the required capital investment exceeds the MACC, then the customer must pay the difference between the MACC and the capital costs as an Aid to Construction (ATC) pursuant to FCG's "Extensions of mains and services above free limit" tariff provision. This tariff provision is shown on Page 1 of 3 of Attachment 1.

FCG stated that during 2012-2016 over 4,400 customers (or on average 880 customers per year) paid ATC costs. The capital investment to serve a new customer may include gas mains, service lines, and regulators.

The AEP tariff is designed to provide FCG with an alternate optional method to recover its capital investment to provide natural gas service to customers in a discrete geographic area who do not have gas service available.[2] The AEP tariff provides for the determination of a charge applicable to all gas customers located in the geographic area over a 10-year amortization period. The AEP charge is applied on a per therm basis in addition to all other tariffed charges. The AEP charge is calculated by a formula based on the amount of investment required and the projected gas sales and resulting revenues collected from customers in the AEP area.

The AEP tariff requires FCG to recalculate and true-up the AEP charge on the third anniversary of the date when the facilities to provide gas service were placed into service, or on the date when 80 percent of the originally forecast annual load is connected, whichever comes first. The Company can true-up the AEP charge only once, and the new charge will be applied prospectively over the remainder of the amortization period.

The AEP tariff includes a provision that the length of the amortization period may be modified upon Commission approval. In 2012, FCG extended its facilities pursuant to the AEP tariff to serve a large commercial customer, a citrus producer (Glades project). In 2016, the Commission approved a delay of the true-up and an extension of the amortization period for two years

[1] Order No. PSC-95-0506-FOF-GU, issued April 24, 1995, in Docket No. 950206-GU, *In re: Petition for approval of tariffs governing extension of facilities by City Gas Company of Florida.*
[2] Ibid.

because the project had not developed as projected.[3] Other than the Glades project, FCG has used the AEP tariff nine times since its 1995 implementation.

FCG's Proposed Take or Pay Provision

The proposed tariff modifications provide FCG with the option to require a take or pay provision from a general tariff extension customer or an AEP customer. The proposed take or pay provision would require the customer to agree to commit to a minimum volume of natural gas each year.

FCG explained that it views the proposed take or pay provision as another tool to mitigate the risk associated with high-cost extensions. The Company asserted that its ability to fully recover its investment may be compromised when a customer's actual gas volumes are significantly less than the customer's estimate of gas volumes used to calculate the MACC and there are minimal or no opportunities to true-up the calculation. FCG asserted that a take or pay provision will add another layer of protection to reduce the risk to the general body of ratepayers from stranded investment. The Company also asserted that a take or pay provision will encourage potential customers to provide business information that will result in a realistic, rather than an inflated, calculation of potential gas volumes.

FCG stated that the process to determine whether a minimum take or pay requirement is necessary is the same for general tariff extension customers or AEP customers. FCG identified three factors it would use to evaluate whether the take or pay provision should be required. The factors are the overall capital investment necessary to extend service, the customer's use for natural gas, and whether the business is a start-up or established business with verifiable consumption data that can be used to substantiate the annual natural gas use estimates (risk assessment). According to the Company, lower risk businesses are those that have existing natural gas use, are implementing equipment with known gas usage, or can provide verifiable usage data, such as data from an affiliate. A higher risk potential customer might be a new business that has new equipment, projected high volumes, and little or no business or gas usage experience. According to the Company, the "ultimate" factor is the impact to the Company and its ratepayers if the new customer's volumes are less than projections.

The minimum volume commitment will not be set above the amount used to calculate the MACC. A customer's specific annual volume commitment would be identified in a schedule that is contained in the gas extension contract. Each year, on the anniversary date of the account, FCG will audit the actual billed volume of natural gas and compare it to the take or pay schedule in the gas extension contract. If the volume is less than the requirement, the Company would bill for the volume shortfall using the applicable charges associated with the customer's tariff rate for general service extension customers. For an AEP customer, the billing of the volume shortfall would also include the applicable AEP surcharge. The minimum volume commitment is six years for general tariff extension customers and ten years for AEP customers. FCG stated that it does not anticipate frequent use of the take or pay provision for general tariff extension customers or AEP customers.

[3] Order No. PSC-16-0066-PAA-GU, issued February 5, 2016, in Docket No. 150232-GU, *In re: Petition for approval of variance from area extension program (AEP) tariff to delay true-up and extend amortization period, by Florida City Gas.*

The Company explained that the Glades project prompted it to review its general tariff extension and AEP tariffs and to consider whether changes to the tariffs might reduce or mitigate future difficulties with lower-than-expected usage. In response to staff's data request, FCG stated that there had been at least one prior situation where a take or pay provision would have been useful as the expected gas volumes did not materialize due to an unintentional error by the customer concerning the customer's installed equipment specifications. FCG also stated that there is a potential project currently under consideration in an existing AEP area with the customer being amenable to a take or pay provision. The Company asserts that the proposed revisions are in the public interest and will protect existing ratepayers while facilitating the expansion of service to new customers.

Conclusion

Staff believes that a take or pay provision for general tariff extension customers and AEP customers is reasonable and appropriate because it will limit the risk to the general body of ratepayers. Therefore, staff recommends that the Commission approve FCG's proposed tariff modifications to the Extension of Facilities and AEP tariffs effective April 4, 2017.

Issue 2: Should this docket be closed?

Recommendation: If Issue 1 is approved the tariffs should become effective on April 4, 2017. If a protest is filed within 21 days of the issuance of the order, the tariffs should remain in effect, with any revenues held subject to refund, pending resolution of the protest. If no timely protest is filed, this docket should be closed upon the issuance of a consummating order. (Leathers)

Staff Analysis: If Issue 1 is approved the tariffs should become effective on April 4, 2017. If a protest is filed within 21 days of the issuance of the order, the tariffs should remain in effect, with any revenues held subject to refund, pending resolution of the protest. If no timely protest is filed, this docket should be closed upon the issuance of a consummating order.

RULES AND REGULATIONS (Continued)

11. EXTENSION OF FACILITIES

A. Free Extensions of Mains and Services: The maximum capital investment required to be made by the Company for main and service facilities without cost to the Customer shall be defined as the Maximum Allowable Construction Cost ("MACC"). The MACC shall equal six times the annual Margin Revenues estimated to be derived from the facilities. However, customers initially served under the Residential Standby Generator Service ("RSG") and Commercial Standby Generator Service ("CSG") Rate Schedules shall not be eligible for extension allowances, even if additional load is added at a later date, but such Customers may be eligible to receive refunds of amounts paid to the Company for extensions under B.(2) below.

B. Extensions of Mains and Services Above Free Limit: When the cost of the extension required to provide service is greater than the free limit specified above, the Company may require a non-interest bearing advance in Aid to Construction ("ATC") equal to the cost in excess of such free limit provided that:

(1) At the end of the first year following construction, the Company shall refund to the person paying the ATC or their assigns an amount equal to the excess, if any, of the MACC as recalculated using actual gas revenues, less the actual cost of gas, over the estimated MACC used to determine the amount of the ATC.

(2) For each additional Customer taking service at any point on the extension within a period of five (5) years from date of construction, the Company shall refund to the person paying the ATC or their assigns an amount by which the MACC for the new Customer exceeds the cost of connecting the Customer, provided that an additional main extension shall have not been necessary to serve the additional Customer.

(3) The aggregate refund to any Customer made through the provisions of (a) and (b) above shall at no time exceed the original ATC of such Customer.

(4) The extension shall at all times be the property of the Company and any un-refunded portion of the ATC at the end of five (5) years shall be credited to the plant account of the Company.

(5) The Company may require a commitment by a customer to take or pay for a minimum volume of gas as deemed appropriate by the Company given the circumstances of facility cost and/or the service requirements of a particular customer. In no instance will the minimum volume commitment be set at a level that exceeds the volume amount used to calculate the MACC for the customer, nor will the volume commitment term exceed six (6) years.

Florida City Gas
FPSC Natural Gas Tariff
Volume No. 8

First Revised Sheet No. 17

RULES AND REGULATIONS (Continued)

11. EXTENSION OF FACILITIES (Continued)

C. Area Extension Program Charge: Notwithstanding the provisions of Sections A and B when facilities are to be extended to serve single or multiple delivery points in a discrete geographic area, the Company may require an Area Extension Program Charge ("AEP"). The Company, in its sole discretion, may require this charge when:

(1) The cost of the project facilities required to provide service through the area is greater than the aggregate MACC for the Customers to be served; and

(2) The Company reasonably forecasts Margin Revenues plus the AEP during the period ending ten years from when the mains required to serve the project facilities are placed in service (the Amortization Period), that are sufficient to recover the cost of the project facilities.

The AEP, which shall be stated on a per therm basis, shall apply with respect to all natural gas sold or transported to Company Customers located within the applicable discrete geographic area during the Amortization Period.

The AEP will be calculated by dividing (1) the amount of additional revenue required in excess of the Company's applicable tariff rates by (2) the volume of gas reasonably forecast to be sold or transported to Customers within the applicable discrete geographic area during the Amortization Period. The additional revenue required is that amount determined necessary to recover the excess cost of the facilities, including the Company's allowed cost of capital.

AEP collected shall be used specifically to amortize the cost of the project facilities within the applicable discrete geographic area that are in excess of the MACC. If the AEP collected is sufficient before the expiration of the Amortization Period to fully amortize the excess costs, including provision for the accumulated cost of capital, the AEP for that area shall terminate immediately, and the Company shall promptly credit the affected Customers for amounts over collected, if any.

Upon the earlier of (1) the third anniversary of the date when the project facilities are placed in service and (2) the date on which 80% of the originally forecast annual load is connected, the Company will reassess the amount of additional revenue required to recover the unamortized excess cost of the facilities and the calculation of the AEP. The resulting adjustment of the AEP (whether upward or downward) will be applied over the remainder of the Amortization Period.

The Company may require a commitment by a customer to take or pay for a minimum volume of gas as deemed appropriate by the Company given the circumstances of facility cost and/or the service requirements of a particular customer. In no instance will the minimum volume commitment be set at a level that exceeds the volume amount used to calculate the MACC for the customer, nor will the volume commitment term exceed ten (10) years.

Issued by: Carolyn Bermudez
Vice President, Southern Operations

Effective

The Company may enter into a guaranty agreement with the party or parties requesting the extension, whereby that party or parties agree to pay to the Company any unamortized balance remaining at the end of the Amortization Period. The Company's rights under the guaranty agreement will not be considered when calculating the AEP.

The length of the Amortization Period may be modified upon the specific approval of the Florida Public Service Commission.

RULES AND REGULATIONS (Continued)

11. EXTENSION OF FACILITIES (Continued)

D. General

The Company will own control and maintain all service pipes, regulators, vents, meters, meter connections, valves and other appurtenances from the main to the outlet side of the meter.

The extension of facilities provisions shall not require the Company to extend its mains across private property or in streets that are not at established grade; nor prohibit the Company from making extensions of mains of greater length than required herein.