

State of Florida



Public Service Commission

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TALLAHASSEE, FLORIDA 32399-0850

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

DATE: June 27, 2024

TO: Office of Commission Clerk (Teitzman)

FROM: Division of Economics (Barrett) *JP*
Division of Engineering (Ellis, Thompson)
Office of the General Counsel (Imig) *JSC*

RE: Docket No. 20230121-EG – Petition for approval of conservation demonstration and development program, by Associated Gas Distributors of Florida.

AGENDA: 07/09/24 – Regular Agenda – Proposed Agency Action

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Passidomo

CRITICAL DATES: None

SPECIAL INSTRUCTIONS: None

Case Background

The Associated Gas Distributors of Florida (AGDF) is a trade association that represents the five investor-owned natural gas utilities operating in Florida: Florida City Gas (FCG), Florida Public Utilities Company (FPUC), Peoples Gas System (PGS), Sebring Gas System (Sebring), and St. Joe Natural Gas Company (SJNG). These companies are local distribution companies (LDCs) and are all subject to the jurisdiction of the Florida Public Service Commission (Commission).

On October 16, 2023, AGDF filed a petition on behalf of the above-mentioned LDCs, with the exception of PGS, seeking approval of new Conservation Demonstration and Development (CDD) program. AGDF asserts that the instant petition is similar to the petition it submitted in Docket No. 20090122-EG, wherein the Commission approved in Order No. PSC-2010-0113-PAA-EG (2010 AGDF Order), AGDF's request for approval of its then-proposed CDD Program

on behalf of its member companies.¹ AGDF states that in that proceeding, the Commission determined that the CDD Program met the Commission's historic tests set forth in Order No. 22176 for evaluating such programs.² In approving the CDD Program, the Commission also accepted the AGDF's proposal for a five (5)-year cap on expenditures under the program, as well as individual project caps.³

AGDF states the Commission has recognized and historically supported reasonable research and development activities for electric utilities, and has likewise recognized that the provisions of Rule 25-17.001(5)(f), Florida Administrative Code, which encourage the aggressive pursuit of research, development and demonstration projects, should also generally apply to natural gas utilities.⁴ The Commission has also found that coordinated research efforts of the AGDF member LDCs can lead to economic efficiencies.⁵

On October 3, 2014, before the expiration of the 5-year term set forth in the 2010 AGDF Order, the AGDF sought to extend the term of the program by a little more than 2.5 years, with the request of allowing expenditure of the existing balance under the caps. By Order No. PSC-2015-0095-PAA-EG (AGDF Extension Order) the Commission granted the extension, but imposed modifications to address specific concerns raised by staff.

In regards to the instant petition, AGDF also supplied additional information in responses to staff data requests on December 15, 2023, February 26, 2024, and April 2, 2024⁶, respectfully. In addition, AGDF issued a letter to the Commission on April 18, 2024, including certain modifications and clarifications to its proposal and providing additional information pertaining to Energy Conservation Cost Recovery Factor impacts associated with the proposed CDD programs.⁷

The Commission has jurisdiction over this matter and is authorized to take action pursuant to Sections 366.80-366.83, Florida Statutes (collectively, Florida Energy Efficiency and Conservation Act, or FEECA Statutes), and also in accordance with Rules 25-17.009 and 17.015, Florida Administrative Code.

¹ Order No. PSC-2010-0113-PAA-EG, issued February 25, 2010, in Docket No. 090122-EG, *In re: Petition for approval of modifications to approved energy conservation programs, by Associated Gas Distributors of Florida.*

² Order No. 22176, issued November 14, 1989, in Docket No. 890737-PU, *In re: Implementation of Section 366.80 - .85, Florida Statutes, Conservation Activities of Electric and Natural Gas Utilities.*

³ The AGDF Order became effective March 25, 2010, and the effective date of for capping the CDD Program was March 25, 2015.

⁴ *See*, Order No. PSC-2015-0095-PAA-EG, at page 4, citing Order No. PSC-10-0113-PAA-EG.

⁵ *Id.*

⁶ Document No. 06618-2023, AGDF's Responses to Staff's First Data Request, Document No. 00929-2024, AGDF Responses to Staff's Second Data Request, and Document No. 01530-2024, Associated Gas Distributors of Florida's Responses to Staff's Third Data Request.

⁷ Document No. 02056-2024, AGDF's letter to William McNulty, Bureau Chief for the Florida Public Service Commission, dated April 18, 2024.

Discussion of Issues

Issue 1: Should the Commission approve the AGDF's petition, subject to certain modified conditions, allowing for its proposed Conservation Demonstration and Development (CDD) program for the participating LDCs: FCG, FPUC, Sebring, and SJNG?

Recommendation: Yes, staff recommends the Commission approve AGDF's petition, subject to modified conditions agreed to by AGDF, allowing for a CDD program for FCG, FPUC, Sebring, and SJNG. Such modified conditions include:

1. The program is limited to five years, and may be extended beyond the initial term, if requested by AGDF at least six months prior to the end of the five-year period;
2. FCG and FPUC may participate in as many as three qualified research projects in any calendar year, with expenditures limited to \$75,000 per project per year; Sebring and SJNG may likewise participate in as many projects limited to \$1,000 per year limit;
3. Any single CDD program project must meet the following minimum eligibility requirements: (a) the proposed measure or program must have an affect on rate-paying customers; (b) there is a lack of available research or insufficient data on the proposed measure or program being evaluated; and (c) there is insufficient Florida-specific data on the proposed program or measure.

In addition, staff recommends that AGDF comply with the following additional provisions:

4. AGDF members must not undertake commercial/industrial class CDD research projects/technologies to the exclusion of residential CDD projects/technologies during the five year period, and should take actions to strike a reasonable balance between the two types of CDD projects;
5. Within 6 months following the conclusion of the 5-year term of the CDD program, or concurrent with a request for CDD program extension, AGDF must file a CDD program status report with the Commission, detailing AGDF's research findings, impacts on cost effectiveness, and how the utilities plan to or have effectively implemented such findings in new and/or existing DSM programs.
6. In accordance with Sections 366.81 and 366.82, F.S., the focus of all CDD projects undertaken by member utilities must be increasing energy efficiency and/or conservation via advances in technologies and/or their implementation in utility gas distribution systems, end-use gas equipment, or demand side renewable energy systems. (Barrett)

Staff Analysis: In its instant petition, AGDF indicates that its proposed CDD program is similar in many ways to the CDD program approved in the 2010 AGDF Order, which was originally approved by the Commission for a five-year period ending March 25, 2015. Thereafter, an extension for the CDD program was approved through December 31, 2017.⁸ In the instant and former petitions, AGDF asserts that the purpose of the CDD program is to

⁸ *Supra*, fn 7.

support research and development, demonstration, and monitoring projects designed to promote energy efficiency, conservation, and reductions in climate change emissions.

Summary of Instant Petition

AGDF claims that while the proposed demonstration development program is intended to identify new gas energy conservation measures, it will also serve a critical role in enhancing and updating existing gas conservation programs. Many of the existing gas conservation programs that are administered by AGDF utilities require updating to reflect various energy and cost assumptions that change over time. AGDF asserts that this CDD program would allow funding to complete the analysis required to file updated conservation programs, most notably, the cost-effectiveness data inputs that are required for gas conservation program approval.⁹

AGDF asserts that in its new proposed CDD program, the participating members have addressed the potential rate impact concerns mentioned in the AGDF Extension Order, and the other concern about the consistency of the proposed research objectives and conservation efforts with FEECA. AGDF believes it has done so by developing minimum eligibility requirements for CDD funding. These requirements include:

- (1) the proposed measure or program must have an affect on rate-paying customers;
- (2) there is a lack of available research or insufficient data on the proposed measure or program being evaluated; and
- (3) there is insufficient Florida-specific data on the proposed program or measure.¹⁰

AGDF states that after the minimum eligibility requirements have been met, the proposed CDD funding project would then have to comport with one of three CDD categories.¹¹ The first category, efficiency, is proposed to include research projects that focused on appliance efficiency, and would include demonstration projects that seek to quantify the efficiency and cost effectiveness of emerging gas end-use equipment and technologies when installed in Florida. The second category, resiliency, would include CDD research projects that focus on smaller, on-site, backup electric generation technologies for home and/or commercial use that are fueled by gas, configured on a standalone basis, or as a combined heat and power configuration. The third and final category, renewable, is proposed to include research efforts that seek to identify and encourage the proliferation of customer-owned renewable natural gas opportunities among commercial and industrial customers across Florida.

In its petition, AGDF asserts that each participating LDC will report any CDD-related expenses and information on program participation through the company's annual conservation cost recovery clause expense review. AGDF proposed annual, estimated program expense limits for each LDC, based upon the assumption of approval to offer one (1), two (2), or three (3) CDD

⁹ See petition at paragraph 15.

¹⁰ See petition at paragraphs 18-19.

¹¹ See petition, Appendix A.

projects in a calendar year.¹² Based on those limits, AGDF also estimated the corresponding cost recovery clause impacts for residential customers that would result if the spending limits it proposed were implemented.¹³

Per its petition, AGDF believes the research projects it proposes will be specifically designed to determine whether the programs and technologies analyzed have the technical potential to meet the statutory provision of forth in Section 366.82(2), F.S., which is to “. . . increase the conservation of expensive resources, such as petroleum fuels, to reduce and control the growth rates of electric consumption, to reduce the growth rates of weather-sensitive peak demand, and to encourage development of demand-side renewable energy resources.”

Comparing Instant and Prior Petitions

Staff has identified the following notable differences between AGDF’s 2009 CDD petition (Docket No. 20090122-EG) and the instant petition:

- a. In the prior docket, AGDF’s request was for a temporary CDD program, and that is what the Commission approved. The instant petition sought approval of a permanent CDD program, but as discussed below, AGDF later agreed to other temporary options.
- b. In the former docket, PGS was a full participant, whereas in the instant case, it is not a full participant, but may engage jointly on some of AGDF’s CDD projects. AGDF explained that the reason PGS is not included in its proposal is that PGS already has an established CDD program approved by the Commission.¹⁴
- c. In the instant petition, AGDF is proposing individual and program total caps based on a maximum of 3 projects in any one year, whereas in 2009, the maximum number of projects was not specified.
- d. The instant petition sets forth minimum eligibility requirements and proposes three CDD categories, which are features that were not included in the AGDF’s petition filed in Docket No. 20090122-EG.

Analysis

Discussed below are topic areas that concerned staff as it considered AGDF’s petition and data request responses.

Initial Request for Permanent Program

As referenced above, AGDF initially sought a permanent CDD program via its petition. Staff’s main concern with this request was that no other DSM programs have been conferred permanent status and, moreover, all FEECA utilities’ goals are subject to review every five years per Rule

¹² In its petition AGDF sought approval to allow FPUC and FCG to have an annual spending limit of \$75,000 per year, per project, for up to a maximum of three projects, which adds up to a maximum annual incremental amount of \$225,000. Additionally, in its petition, AGDF proposed an annual spending limit of \$5,000 per year, per project for SJNG, and a limit of \$2,000 per year, per project for Sebring.

¹³ Since the AGDF’s petition was filed, the spending limits originally proposed have been revised, and those changes resulted in changes to the calculations that estimate the cost recovery clause impacts. In its analysis below, the most current information is presented.

¹⁴ Document No. 06618-2023, AGDF’s Response to Staff’s First Data Request, No. 1.B.

25-17.0021(1), F.A.C, at which time all programs are simultaneously under review. In discussions with staff on March 6, 2024, staff relayed its concern that a permanent program would not appear to comport with our existing rule. Staff also conveyed that, because CDD research programs have not been pursued in any meaningful way by any Florida gas investor-owned utilities since the expiration of the prior CDD program in 2018, instituting a permanent program at this stage of CDD program development did not seem to be well supported.

On April 18, 2024, in response to staff concerns regarding this issue and other matters, AGDF submitted a letter to staff that stated that AGDF is amenable to a 5-year program limitation, as long as it is not precluded from seeking an extension.¹⁵ Alternatively, the letter sets forth that a 5-year reporting requirement may be more administratively efficient, and would provide staff with sufficient information to initiate a docket if needed to address program concerns. Staff agrees with the former approach, wherein the proposed CDD program would have a 5 year program limitation and AGDF would have the option to seek Commission approval for a program extension. Staff believes there is much to be learned about any new CDD program, and that the better approach would be to limit the CDD program to set time period, with an option to extend the program based upon the level of success achieved as reported and reviewed. Therefore, staff recommends that the modifications set forth by the April 18, 2024 letter be incorporated into the order approving the program.

Cost Caps and Rate Impacts

In its petition, AGDF sought approval to allow FPUC and FCG to each have an annual spending limit of \$75,000 per project, for up to a maximum of three projects, or a maximum annual incremental amount of \$225,000 per utility. Additionally, the petition proposed an annual spending limit of \$5,000 per project for SJNG, and an annual spending limit of \$2,000 per project for Sebring. AGDF presented expected residential natural gas cost recovery clause factor (rate) impacts resulting from these limits which, upon consultation with staff, AGDF agreed resulted in rate impacts that were excessive, especially for Sebring and SJNG. In AGDF’s April 18, 2024 response letter to staff, it reduced its requested annual spending limits for Sebring and SJNG to \$1,000 for each utility, regardless of the number of projects undertaken. Table 1-1 below reflects the most current spending limits AGDF proposes:

**Table 1-1
 AGDF’s Proposed CDD Program Expense Limits (per year)**

LDC	One (1) CDD Project	Two (2) CDD Projects	Three (3) CDD Projects
FPUC	\$75,000	\$150,000	\$225,000
FCG	\$75,000	\$150,000	\$225,000
Sebring	\$1,000	\$1,000	\$1,000
SJNG	\$1,000	\$1,000	\$1,000

In addition, AGDF corrected a cost allocation error to the residential rate impacts appearing in its petition, in which all costs were assigned to the residential class. With the cost allocation corrected and with an annual spending limit of \$1,000 for Sebring and SJNG, the proposed incremental rate impacts have been substantially moderated. The percent increase in for

¹⁵ Supra, fn 11.

Sebring’s residential rate under the new limit would be about 2.5 percent for up to three CDD projects, while the percent increase for SJNG residential rate would be under 1 percent for up to three projects. With these revisions, staff agrees that the new spending limits for each of the member utilities are reasonable. Table 1-2 below shows the rate impacts with the allocation correctly applied and with the \$1,000 limits in place for Sebring and SJNG:

**Table 1-2
 Updated Proposed Cost Recovery Impacts for CDD Programs**

Rate Class	2024 Clause Factor	One Project			Two Projects			Three Projects		
		Incram. cost	Increase (percent)	Revised 2024 Clause Factor	Incram. cost	Increase (percent)	Revised 2024 Clause Factor	Incram. cost	Increase (percent)	Revised 2024 Clause Factor
FPUC										
Res. (1)	13.035	\$ 75,000	2.27%	13.331	\$ 150,000	4.54%	13.627	\$ 225,000	6.81%	13.923
Res. (2)	6.657			6.808			6.959			7.110
Res. (3)	3.655			3.738			3.821			3.904
FCG										
RS1	29.484	\$ 75,000	1.16%	29.826	\$ 150,000	2.32%	30.167	\$ 225,000	3.48%	30.509
RS100	14.192			14.356			14.521			14.685
RS600	8.522			8.621			8.720			8.818
Sebring										
TS-1	12.985	\$ 1,000	2.50%	13.309	\$ 1,000	2.50%	13.309	\$ 1,000	2.50%	13.309
SJNG										
RS-1	33.922	\$ 1,000	0.71%	34.162	\$ 1,000	0.71%	34.162	\$ 1,000	0.71%	34.162
RS-2	24.049			24.219			24.219			24.219
RS-3	18.16			18.288			18.288			18.288

All Clause factors shown in Table 1-2 are cents per therm.

Program Approvals by Category

AGDF states that its three categories for CDD projects (i.e. efficiency, resiliency, and renewable) showcase the range of potential research projects that could be undertaken. AGDF asserts that the objective for the efficiency category will be for studying technologies that improve the efficiency of appliances and gas end-use equipment. Research for the resiliency category is aimed at increasing a building’s resiliency by studying gas-fired back-up electric generating and/or combined heat-and-power systems and technologies that may be developed for residential or commercial applications. Research under the renewable category seeks to evaluate technologies and opportunities for the cost-effective use of renewable natural gas in place of, or in combination with, traditionally-sources gas in order to achieve greater efficiency and/or to reduce overall methane emissions.

Despite the framework presented in AGDF’s petition, staff is concerned that no specific project proposal for any category was provided. Via data requests, staff sought detailed and descriptive information on projects to be pursued under these categories, and none were provided.¹⁶ AGDF stated that it sought program approvals first (before project details were developed or available)

¹⁶ Document No. 06618-2023, AGDF’s Response to Staff’s First Data Request, No. 4.A.

because its member companies “require the program account[s] to allocate costs associated with prioritizing CDD projects and soliciting research proposals.”¹⁷

Also, staff is uncertain whether projects under the resiliency or the renewable categories could rightfully be described as conservation. In the April 18, 2024 letter, AGDF stated that any potential technology or program studied in the resiliency category would be subject to the data inputs outlined in the cost-effectiveness tests of other conservation programs.¹⁸ Staff has concerns that projects under the resiliency and renewable categories could result in load building without a demonstration that such research is designed to result in conservation. In accordance with Sections 366.81 and 366.82, F.S., staff believes the focus of all CDD projects undertaken by member utilities must be increasing energy efficiency and/or conservation via advances in technologies and/or their implementation in utility gas distribution systems, end-use gas equipment, or demand side renewable energy systems. All proposed projects for any category must comply with the FEECA Statutes as relates to conservation in order to qualify for cost recovery. Staff believes that, if AGDF is uncertain whether a planned CDD project meets the statutory requirements, it should seek affirmation of the acceptability of the project from the Commission before engaging in such a project and seeking related cost recovery.

Reporting Requirements

In light of the concerns that staff has regarding the cost and rate impacts and program categories, staff recommends reporting requirements be included in the order approving the program. In as much as the proposed CDD program represents a new program for the AGDF member utilities included in the instant petition, staff believes the Commission would benefit from relevant program implementation and results information from AGDF provided subject to a reporting requirement. As referenced earlier, the AGDF Extension Order included a reporting requirement,¹⁹ and staff believes a similar provision should be applied to the instant case. Within 6 months following the conclusion of the 5-year term of the CDD program, or concurrent with a request for CDD program extension, staff believes AGDF should be compelled to file a CDD program status report with the Commission, detailing the successes and limitations of each CDD project and the CDD program in general. Staff believes the program status report should clearly delineate what AGDF’s research findings have been, impacts on cost effectiveness, and how the utilities have effectively implemented such findings in new and/or existing DSM programs.

Conclusion

Staff recommends the Commission approve AGDF’s petition, subject to modified conditions agreed to by AGDF, allowing for a CDD program for FCG, FPUC, Sebring, and SJNG. Such modified conditions include:

1. The program is limited to five years, and may be extended beyond the initial term, if requested by AGDF at least six months prior to the end of the five-year period;

¹⁷ Document No. 00929-2024, AGDF’s Responses to Staff’s Second Data Request, No. 4.A.

¹⁸ AGDF stated that programs studied under the “resiliency” category would require all of the data inputs outlined in Part One of the Gas Rate Impact measure (G-RIM) cost-effectiveness test.”

¹⁹ Supra, fn 7.

2. FCG and FPUC may participate in as many as three qualified research projects in any calendar year, with expenditures limited to \$75,000 per project per year; Sebring and SJNG may likewise participate in as many projects limited to \$1,000 per year limit (total, all projects);

3. Any single CDD program project must meet the following minimum eligibility requirements: (a) the proposed measure or program must have an affect on rate-paying customers; (b) there is a lack of available research or insufficient data on the proposed measure or program being evaluated; and (c) there is insufficient Florida-specific data on the proposed program or measure.

In addition, staff recommends that AGDF comply with the following additional provisions:

4. AGDF members must not undertake commercial/industrial class CDD research projects/technologies to the exclusion of residential CDD projects/technologies during the five year period, and should take actions to strike a reasonable balance between the two types of CDD projects;

5. Within 6 months following the conclusion of the 5-year term of the CDD program, or concurrent with a request for CDD program extension, AGDF must file a CDD program status report with the Commission, detailing AGDF's research findings, impacts on cost effectiveness, and how the utilities plan to or have effectively implemented such findings in new and/or existing DSM programs.

6. In accordance with Sections 366.81 and 366.82, F.S., the focus of all CDD projects undertaken by member utilities must be increasing energy efficiency and/or conservation via advances in technologies and/or their implementation in utility gas distribution systems, end-use gas equipment, or demand side renewable energy systems.

Issue 2: Should this docket be closed?

Recommendation: If Issue 1 is approved, and no protest is filed within 21 days of the issuance of the order, a consummating order should be issued and the docket should be closed. (Imig)

Staff Analysis: If Issue 1 is approved, and no protest is filed within 21 days of the issuance of the order, a consummating order should be issued and the docket should be closed.