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PLEASE REPLY TO
TALLAHASSEE

May 28, 1997

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HAND DELIVERED

Blanca S. Bayo, Director
Division of Records and Reporting
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32301

Re: In re: Petition of St. Joe Natural Gas Company,
Inc. for a Limited Proceeding to Restructure its
Rates -- Docket No. 970115-GU

Dear Ms. Bayo:

Enclosed for filing and distribution are the original and
sixteen copies of Florida Coast Paper Company's Petition on
Proposed Agency Action/Request for Clarification in the above
docket.

Please acknowledge receipt of the above on the extra copy
enclosed herein and return it to me. Thank you for your
assistance.

Yours truly,

Joe McGlothlin
Joseph A. McGlothlin

- ACK
- AFA 2
- APP
- CAF
- CMU JAM/jic
- CTR
- EAG Enclosures
- LEG 1
- LIN
- OPC
- RCH
- SEC 1
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- OTH orig to Dm

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[Signature]
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DOCUMENT NUMBER-DATE
05326 MAY 28 6
FPSC-RECORDS/REPORTING

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Petition of St. Joe)
Natural Gas Company, Inc.)
for a Limited Proceeding to)
Restructure its Rates)

Docket No. 970115-GU

Filed: May 28, 1997

**PETITION ON PROPOSED AGENCY ACTION
AND REQUEST FOR AMENDMENT OR CLARIFICATION**

Pursuant to Commission Rule 25-22.036, F.A.C., Florida Coast Paper Company, L.L.C., ("Florida Coast"), through its undersigned attorney, submits this Petition on Proposed Agency Action relating to Order No. PSC-97-0526-FOF-GU, and states:

1. The full name and address of Petitioner is:

Florida Coast Paper Company, L.L.C.
c/o 1979 Lakeside Parkway, Suite 300
Tucker, Georgia 30084

2. All Notices, pleadings, and orders should be provided to the undersigned and to:

Dr. Thomas Kisla
1979 Lakeside Parkway, Suite 300
Tucker, GA 30084

An explanation of how and when Petitioner received notice of the agency's proposed action:

3. The undersigned attorney obtained a copy of Order No. PSC-97-0526-FOF-GU from the Commission's Internet site on May 21, 1997.

An explanation of how Petitioner's substantial interests will be affected by the Order on Proposed Agency Action:

4. In the above docket, St. Joe Natural Gas Company requested authority

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FPSC-RECORDS/REPORTING

to restructure rates to reflect cost of service considerations. In its petition, the utility asserted that its industrial rates were subsidizing other rate classes. St. Joe Natural Gas Company proposed to adjust rates so as to eliminate interclass subsidies over time, as part of its effort to retain at-risk industrial load. In Order No. PSC-97-0526-FOF-GU, the Commission proposed to grant the Petition and to authorize the proposed adjustments to rates. Florida Coast does not object to the portion of Order No. PSC-97-0526-FOF-GU that grants the Petition of St. Joe Natural Gas Company to adjust rates.

5. The Commission included at page 2 of Order No. PSC-97-0526-FOF-GU the following language, which is unrelated to its decision to allow St. Joe Natural Gas Company to adjust rates to reflect cost of service considerations among customer classes:

. . . In 1991, St. Joe and SJFPC entered into a service contract in which the customer agreed to purchase a minimum monthly quantity of gas from the company at interruptible rates . . .

Recently, SJFPC was purchased by Florida Coast paper Company (FCPC). FCPC has cited increased competition in the market place and St. Joe's high interruptible rates as the primary reasons for seeking lower energy costs. FCPC has contested its responsibility with regard to the original gas contract between St. Joe and SJFPC. As a result, FCPC has decreased its gas usage by approximately 50 percent of the contract amount. In addition, FCPC has notified St. Joe that it will no longer assume liability for \$120,000 in Florida Gas Transmission demand charges. In the event FCPC is determined not to have a contractual obligation, FCPC may find it more economical to burn an alternate fuel rather than pay St. Joe's high interruptible rates. With minor modifications, FCPC can operate it's [sic] facility entirely on an alternate fuel.

6. Any dispute arising from the notice Florida Coast provided to St. Joe Natural Gas Company relative to its obligations, to which the order alludes, is not

before the Commission in Docket No. 970115-GU. Florida Coast believes the quoted language merely tracks language which Staff included in its recommendation to the Commissioners simply to apprise the Commissioners of a development outside the case before the Commission of which Staff had become aware informally. Unfortunately, the inclusion of the quoted material has the unintended effect of creating the potential that the order could be misconstrued, to the prejudice of Florida Coast's substantial interests, in the following respects:

a. In the order, the Commission purports to describe or characterize (in shorthand fashion) the nature and terms of the contractual relationship between St. Joe Natural Gas and the prior owner of the mill. Again, that subject is not before the Commission, and any references that could be mistaken either as "findings" relative thereto (or as obiter dictum) are inappropriate and potentially prejudicial to Florida Coast.

b. In the order, the Commission mistakenly associates the fact that Florida Coast has decreased the amount of gas it consumes at its mill in Port St. Joe with the position regarding contractual obligations that Florida Coast communicated to St. Joe Natural Gas Company, and injects this error into its extraneous portrayal of the situation.

c. By characterizing Florida Coast's notice to St. Joe Natural Gas as saying Florida Coast "will no longer assume liability" for certain FGT demand charges, the Commission creates the possibility that its order could be construed erroneously to mean Florida Coast had acknowledged that some basis for such demand charges

existed prior to the notice.

d. Having referred to and described the action of Florida Coast, the Commission continued in the order by saying:

St. Joe seeks to avoid this particular crisis through the proposed rate structuring.

Id. This juxtaposition creates ambiguity, and with it the possibility that the order could be misconstrued. There should be no possibility of inferring that the Commission believed it had addressed the basis for the separate contractual issue by authorizing the rate restructuring sought in the petition.

7. In the event it becomes necessary to present and develop issues and positions concerning a dispute related to Florida Coast's notice to the utility or related matters before the appropriate forum, there should be no possibility that the development of the issue could be colored or influenced by the superfluous language of the PAA. As set forth in the following motion, the quoted material should be deleted from the PAA; alternatively, the Commission should clarify that it intended no findings and expressed no views regarding the dispute between Florida Coast and the utility, or the basis therefor. Upon receiving such clarification, Florida Coast will withdraw its protest.

Statement of all known disputed issues of material fact:

8. The sole point of Florida Coast's petition is that the language of Order No. PSC-97-0526-FOF-GU to which Florida Coast objects is unrelated to St. Joe Natural Gas' petition or the basis for the Commission's decision to grant the petition. Florida Coast submits there is, and can be, no dispute regarding that point. Because

Order No. PSC-97-0526-FOF-GU is a PAA, Florida Coast is using this means to gain the attention of the Commission on the need to amend the order and thereby avoid the possibility of unintended prejudicial effects.

Statement of ultimate facts alleged:

9. The language of Order No. PSC-97-0526-FOF-GU quoted above is extraneous, erroneous and irrelevant to the subject of the petition which the order grants. It gives rise to the unintended possibility that Order No. PSC-97-0526-FOF-GU could be misconstrued, to the prejudice of Florida Coast's substantial interests.

Demand for relief:

10. Florida Coast requests the Commission to amend Order No. PSC-97-0526-FOF-GU so as to eliminate or clarify the language which is the subject of this petition.

MOTION TO AMEND OR CLARIFY ORDER

As delineated in the above Petition on Proposed Agency Action, which is incorporated by reference, certain extraneous language in the PAA has the unintended, inadvertent effect of creating the potential for future prejudice. Absent amendment and/or clarification, the PAA as written could possibly be misconstrued, to the prejudice of Florida Coast. However, this unintended effect can easily be eliminated by deleting or clarifying the language identified in the above petition. Such a measure will not adversely affect St. Joe Natural Gas Company, as the objectionable language is unrelated to the only issue presented by the utility's petition, and Florida Coast has not objected to the only decision/action of the Commission that was sought by the

utility.

Accordingly, Florida Coast asks the Commission to amend said order by deleting the material quoted above. Alternatively, Florida Coast requests the Commission to clarify that its decision on St. Joe Natural Gas' petition to restructure rates is unrelated to the separate contractual issue to which it referred in said order, and that in the order the Commission intended no findings and expressed no views relative to any aspect of the merits of the separate matter to which it referred.


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Attorney for Stone Container

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of Florida Coast Paper Company's PETITION ON PROPOSED AGENCY ACTION AND REQUEST FOR CLARIFICATION has been furnished by hand delivery(*) or U.S. Mail to the following parties of record this 28th day of May, 1997:

*Cochran Keating
Florida Public Service Commission
Division of Legal Services
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850

D. Bruce May
Karen D. Walker
Holland & Knight
P. O. Drawer 810
Tallahassee, FL 32302



Joseph A. McGlothlin