

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for waiver of service line abandonment provisions of Rule 25-12.045, F.A.C. by Florida Natural Gas Association. | DOCKET NO. 070135-GU
| ORDER NO. PSC-07-0830-AS-GU
| ISSUED: October 15, 2007

The following Commissioners participated in the disposition of this matter:

LISA POLAK EDGAR, Chairman
MATTHEW M. CARTER II
KATRINA J. McMURRIAN
NANCY ARGENZIANO
NATHAN A. SKOP

ORDER APPROVING SETTLEMENT PROPOSAL AND CLARIFYING AND FINALIZING
ORDER NO. PSC-07-0488-PAA-GU

BY THE COMMISSION:

The Florida Natural Gas Association (FNGA) is a natural gas trade association representing investor-owned Local Distribution Companies (LDCs), special gas districts, municipal distribution systems, gas transmission companies, gas marketing companies, and others affiliated with the natural gas industry. FNGA's members include Florida's seven investor-owned gas distributors and twenty-nine of the thirty-one special district and municipal distribution systems. Each LDC member is subject to the regulatory jurisdiction of this Commission for gas safety under Chapter 368, Part I, Florida Statutes, and Rule 25-12.045, Florida Administrative Code (F.A.C.). Rule 25-12.045, F.A.C., applies directly to FNGA's LDC members, and FNGA meets the definition of "person" as referenced in Section 120.542, Florida Statutes, and defined in Section 120.52(13), Florida Statutes.

On March 1, 2007, FNGA filed a petition on behalf of its member companies to temporarily waive the service line abandonment provisions of Rule 25-12.045, F.A.C. By Order No. PSC-07-0488-PAA-GU, issued June 8, 2007, we approved FNGA's temporary waiver of Rule 25-12.045(1)(b) and (1)(c). On June 29, 2007, FNGA filed a Protest and/or Request for Clarification of Proposed Agency Action ("PAA") Order No. PSC-07-0488-PAA-GU. In its protest, FNGA asserted that its members will be directly impacted by ambiguity in the PAA Order addressing the Petition for Waiver.

On July 30, 2007, our staff held an informal meeting with FNGA to discuss FNGA's concerns set forth in its Protest. On August 31, 2007, after additional discussions with our staff, FNGA submitted a Settlement Proposal, attached as Appendix A. This order addresses FNGA's Settlement Proposal. We have jurisdiction pursuant to Sections 120.542 and 368.05(1), Florida Statutes.

DOCUMENT NUMBER-DATE

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FPSC-COMMISSION CLERK

Discussion

Rule 25-12.045, F.A.C., pertains to actions that must be taken by LDCs for inactive gas service lines that have been used, but became inactive with no prospect for reuse. Paragraph (1)(a) of Rule 25-12.045 states that if there is no prospect for reuse, the service line must be physically abandoned and retired within three months of becoming inactive. Paragraph (1)(b) of Rule 25-12.045 provides that, after two years of inactivity and the prospect of reuse still exists, the gas service provider must within a six month period complete one of the following: disconnect the service line from all sources of gas and abandon or remove the line, lock the valve on the service line in a closed position and plug the line to prevent the flow of gas, or remove the meter and plug the service line. Paragraph (1)(c) states that after five years of inactivity, the service line provider must retire and physically abandon the line within six months. Subsections (2) and (3) of Rule 25-12.045, F.A.C., detail the procedures for physical abandonment of a service line and the record keeping procedure for service line stubs that must be maintained by the LDC.

FNGA requested a temporary waiver of Paragraphs (1)(b) and (1)(c) of Rule 25-12.045, F.A.C. FNGA stated that the rule waiver was necessary to establish the marketing and incentive tools needed to improve the retention of existing customers and attract inactive customers back to gas services.

By Order No. PSC-07-0488-PAA-GU, issued June 8, 2007, we granted FNGA's request for temporary waiver of Rule 25-12.045(1)(b) and (1)(c), F.A.C., for a period of two years (until December 31, 2009). We found, pursuant to Section 120.542, Florida Statutes, that FNGA met the underlying purpose of Section 368.05, Florida Statutes, and that FNGA would suffer a substantial hardship if the rule waiver was denied. After the expiration of the waiver period, we allowed the LDCs two years to return to full compliance with Rule 25-12.045(1)(b) and (1)(c), F.A.C.

FNGA protested Order No. PSC-07-0488-PAA-GU. The basis of FNGA's Protest was the following statement, which appeared on page 3 of Order No. PSC-07-0488-PAA-GU:

For example, FNGA members will still be required to disconnect the service line from all sources of gas, they will still be required to lock the valve in a closed position and plug the service line to prevent the flow of gas, and they will still be required to disconnect the service line from all sources of gas at the nearest point to the gas main.

In its Protest, FNGA asserted that this language conflicts with the temporary waiver of Rule 25-12.045 (1)(b), F.A.C., granted by Order No. PSC-07-0488-PAA-GU.

On August 31, 2007, FNGA submitted a Settlement Proposal to resolve its Protest. In the Settlement Proposal, FNGA states that if we clarify that FNGA's Petition for waiver of Rule 25-12.045(1)(b) and (1)(c), F.A.C., was granted in its entirety, we may deem FNGA's Protest of Order No. PSC-07-0488-PAA-GU withdrawn. FNGA states that, without such a clarification,

FNGA's members will be subject to regulatory uncertainty and unnecessarily incur additional costs to comply with the provisions of Rule 25-12.045(1)(b), F.A.C. The Settlement Proposal is conditioned on us accepting the proposal without modification.

As stated above, we granted FNGA a temporary waiver of the requirements of Rule 25-12.045(1)(b) and (1)(c), F.A.C. We believe that the intent of the language on page 3 of the Order was to remind FNGA members that, despite the temporary waiver of Rule 25-12.045(1)(b) and (1)(c), they are still required to disconnect gas service in a safe manner. In fact, Rule 25-12.044, requires the operator to either lock, in the closed position, the valve on the service line or plug the service line to prevent the flow of gas when gas service is turned off or when the operator becomes aware that the supply of gas to the customer has been interrupted. FNGA did not request a temporary waiver of Rule 25-12.044, F.A.C.

Although there are other Commission rules imposing safety requirements on FNGA's members, we understand how the statement on page 3 of the Order could be misconstrued to require FNGA to still adhere to the requirements of Rule 25-12.045(1)(b), F.A.C., even though we granted the temporary waiver of that rule. Thus, we approve FNGA's Settlement Proposal and clarify that Order No. PSC-07-0488-PAA-GU granted the temporary waiver of Paragraphs (1)(b) and (1)(c) of Rule 25-12.045, F.A.C., in their entirety. By accepting FNGA's Settlement Proposal without modification, FNGA's Protest is deemed withdrawn.

We note that in the Settlement Proposal, FNGA confirms that LDCs will continue to comply with Rule 25-12.044, F.A.C., when a gas line becomes inactive. FNGA acknowledges that Rule 25-12.044, F.A.C., requires that the valve or service line either be closed and locked, or plugged, when gas service to a customer is turned off or interrupted. FNGA states that LDC operators meet this rule requirement through the use of a meter lock. Moreover, FNGA states that LDCs will continue to comply with all other federal and state gas safety requirements other than Rule 25-12.045(1)(b) and (1)(c), F.A.C.

We believe FNGA's Settlement Proposal demonstrates FNGA's awareness that gas service must be disconnected in a safe manner despite the temporary waiver of Paragraphs (1)(b) and (1)(c) of Rule 25-12.045, F.A.C. As stated above, we believe this was the intent of the statement on page 3 of Order No. PSC-07-0488-PAA-GU.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that Florida Natural Gas Association's Settlement Proposal is approved. It is further

ORDERED that Order No. PSC-07-0488-PAA-GU is clarified as set forth in the body of this order. It is further

ORDERED that Order No. PSC-07-0488-PAA-GU is final and this docket shall be closed.

By ORDER of the Florida Public Service Commission this 15th day of October, 2007.



ANN COLE
Commission Clerk

(S E A L)

KY

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

Any party adversely affected by the Commission's final action in this matter may request: 1) reconsideration of the decision by filing a motion for reconsideration with the Office of Commission Clerk, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, within fifteen (15) days of the issuance of this order in the form prescribed by Rule 25-22.060, Florida Administrative Code; or 2) judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or the First District Court of Appeal in the case of a water and/or wastewater utility by filing a notice of appeal with the Office of Commission Clerk, and filing a copy of the notice of appeal and the filing fee with the appropriate court. This filing must be completed within thirty (30) days after the issuance of this order, pursuant to Rule 9.110, Florida Rules of Appellate Procedure. The notice of appeal must be in the form specified in Rule 9.900(a), Florida Rules of Appellate Procedure.

**BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION**

In the Matter of:)	
Petition for Waiver of Service Line)	Docket No. 070135-GU
Abandonment Provisions of Rule)	Filed: August 31, 2007
25-12.045, F.A.C. by the Florida Natural)	
Gas Association.)	

THE FLORIDA NATURAL GAS ASSOCIATION'S SETTLEMENT PROPOSAL

The Florida Natural Gas Association ("FNGA"), by and through its undersigned counsel, hereby submits this Settlement Proposal with regard to its Protest of Proposed Agency Action Order No. PSC-07-0488-PAA-GU, issued June 8, 2007. As set forth in FNGA's Protest, the FNGA filed its protest of the Commission's Proposed Agency Action Order No. PSC-07-0488-PAA-GU, because the FNGA and its members were concerned that certain language on page 3 of that Proposed Agency Action Order could be construed contrary to the Commission's otherwise apparent intent to grant FNGA's request for waiver of subparts (b) and (c) of Rule 25-12.045, F.A.C. In light of productive settlement discussions with PSC Staff, the FNGA proposes the following:

1. The Commission will issue an Order clarifying that the FNGA's Petition for Waiver of Rule 25-12.045(1)(b) and (c), F.A.C., is granted in its entirety.
2. If the requested clarification is made and the Waiver is granted, LDCs that avail themselves of the terms of the Waiver will continue to comply with Rule 25-12.044, F.A.C., when a gas line becomes inactive. Rule 25-12.044, F.A.C., requires that the valve or service line either be closed and locked, or plugged, when gas service to a customer is turned off or interrupted. Currently, LDC operators meet the requirements of this Rule through the use of a meter lock.

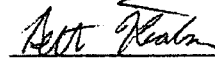
Docket No. 070135-GU
August 31, 2007

3. If the clarification is made and the Waiver is granted, LDCs that avail themselves of the terms of the requested Waiver will continue to comply with all other federal and state safety requirements, unless and until a waiver of such requirements has been requested from and granted by the appropriate regulatory authority.

By submitting the foregoing, the FNGA hopes to assure the Commission that FNGA's member operators will continue to apply prudent safety precautions throughout the duration of the requested Waiver, and will, as such, continue to meet the underlying requirements of Section 368.05(2), Florida Statutes. Thus, the FNGA respectfully requests that the Commission accept the FNGA's Settlement Proposal set forth herein, and approve the FNGA's Petition for Waiver of Rule 25-12.045, Florida Administrative Code, in its entirety. If the proposal set forth herein is accepted, FNGA suggests that there will be no need for a Section 120.57, Florida Statutes, hearing; consequently, if the Commission accepts this Proposal of Settlement without modification, the Commission may deem the FNGA's Protest of Order No. PSC-07-0488-PAA-GU withdrawn.

Respectfully submitted this 31th day of August, 2007.

Florida Natural Gas Association



Beth Keating, Esquire
Akerman Senterfitt
106 East College Avenue, Suite 1200
P.O. Box 1877 (32302)
Tallahassee, Florida 32301
(850) 521-8002
beth.keating@akerman.com

Attorneys for the FNGA