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Public Service Commission

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COMMISSION
CLERK

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

DATE: October 6, 2005

TO: Director, Division of the Commission Clerk & Administrative Services (Bayó)

FROM: Division of Competitive Markets & Enforcement (Broussard, Bulecza-Banks, Makin) *EBB* *CRB*
Office of the General Counsel (Brown) *MCBNAH*

RE: Docket No. 050583-GU – Petition to amend provisions of Pool Manager Service Tariff by Florida Public Utilities Company.

AGENDA: 10/18/05 – Regular Agenda – Tariff Filing – Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Administrative

CRITICAL DATES: 11/16/05 (60-Day Suspension Date)

SPECIAL INSTRUCTIONS: None

FILE NAME AND LOCATION: S:\PSC\CMP\WP\050583.RCM.DOC

Case Background

Florida Public Utilities Company (FPUC or the Company) permits marketers and brokers to sell natural gas to customers with FPUC providing transportation of the gas to the customers. To set forth the responsibilities of the marketer or broker, FPUC has in place a tariff entitled "Pool Manager" Tariff, Rate Schedule PM. The tariff applies to each broker, marketer or other third party supplier (collectively "Pool Manager") of natural gas that wishes to act as agents for the purpose of purchasing and scheduling natural gas for customers of FPUC electing transportation services. Pool Managers desiring to provide service to FPUC customers will be required to sign an agreement accepting the terms and conditions of Rate Schedule PM.

DOCUMENT NUMBER-DATE

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To qualify as a Pool Manager, the marketer/broker must provide documentation of its ability to hold transportation capacity on Florida Gas Transmission's Pipeline (FGT) system. Upon meeting the Company's standards for creditworthiness, the Company will permit the Pool Manager to sell natural gas on the Company's distribution system. The Pool Manager is responsible for purchasing and delivering natural gas to the Company's city gate station for FPUC transportation customers served by the Pool Manager.

To assist the Pool Manager, FPUC calculates the daily delivery requirements of each customer served by the Pool Manager based on historic usage. The Company informs the Pool Manager via e-mail of the Pool Manager's daily delivery requirement, by city gate, for the upcoming month. The Pool Manager is responsible for delivering this amount of gas in FGT's pipeline system for delivery into FPUC's distribution system. The Company will assess the Pool Manager a \$15.00 per MMBtu charge for each day when delivery to the Company by the Pool Manager differs from the Pool Manager's daily delivery requirement. This charge will also serve as the final resolution between the Company and the Pool Manager for such variances.

On September 2, 2005, FPUC filed a petition to amend their existing penalty provision in its Pool Manager Service Tariff Rate Schedule PM, increasing the charge assessed the Pool Manager from \$15.00 to \$50.00 per MMBtu each day when delivery by the Pool Manager fails to meet the daily delivery requirements. On September 16, 2005, the Company filed a revised petition to amend provisions of the Pool Manager Service Tariff Rate Schedule PM from \$15.00, to "the maximum of \$15.00 per MMBtu or 200% of the highest weekly Alert Day price posted by FGT for each day when delivery to the Company by the Pool Manager differs from the Pool Manager's daily delivery requirement during the said weekly period." This recommendation addresses the Company's revised petition.

Jurisdiction over this matter is vested in the Commission by several provisions of Chapter 366, Florida Statutes, including Sections 366.04, 366.05, and 366.06.

Discussion of Issues

Issue 1: Should the Commission approved FPUC's revised petition to amend the Company's penalty provision in its Pool Manager Service Tariff?

Recommendation: Yes. The Commission should approve FPUC's revised petition to amend its provision of the Pool Manager Service Tariff rate from \$15.00, to the maximum of \$15.00 or 200% of the highest weekly Alert Day price posted by FGT as recorded in Gas Daily, effective October 18, 2005, the date of the Commission's vote in this matter. (Broussard, Bulecza-Banks, Makin)

Staff Analysis: On September 16, 2005, the Company filed a revised petition to amend the penalty provisions included in FPUC's Pool Manager Service Tariff Rate Schedule PM. The penalty provisions included in the tariff serve to ensure that Pool Managers deliver the required gas to the system. If penalties are not set high enough, marketers and brokers that do not have enough supply to fulfill all their obligations will deliver the gas to those entities with higher penalty provisions, thus leaving the entities with lower penalty provisions without needed gas supply for their customers.

With gas prices at historic levels, some marketers and brokers have been having difficulty securing the total volumes of gas necessary to fulfill their contractual obligations. As marketers and brokers are typically serving many areas in Florida, along with areas outside the state, they have, on occasion delivered gas to those companies that have the highest penalties first, thereby avoiding the higher penalty. The companies with lower penalties are faced with purchasing gas to cover the undelivered amount in order to fulfill the Pool Manager's contract obligation.

This modification to the Pool Manager Service Tariff provision is consistent with the language and rate used by FGT. It will ensure that FPUC's customers will receive the gas they require from Pool Managers, and that assessments, if any, are consistent with the treatment by FGT with FPUC. Therefore, staff recommends that the Commission should approve FPUC's revised petition to amend its provision of the Pool Manager Service Tariff rate from \$15.00, to the maximum of \$15.00 or 200% of the highest weekly Alert Day price posted by FGT as recorded in Gas Daily, effective October 18, 2005, the date of the Commission's vote in this matter.

Docket No. 050583-GU

Date: October 6, 2005

Issue 2: Should this docket be closed.

Recommendation: Yes. If no person whose substantial interests are affected, timely files a protest of the Commission's tariff Order, the docket may be closed upon the issuance of a Consummating Order. If a timely protest is filed, the tariff should remain in effect pending resolution of the protest, with revenues held subject to refund. (M. Brown)

Staff Analysis: If no person whose substantial interests are affected, timely files a protest of the Commission's tariff Order, the docket may be closed upon the issuance of a Consummating Order. If a timely protest is filed, the tariff should remain in effect pending resolution of the protest, with revenues held subject to refund.