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January 12, 2006

VIA E-FILING

Blanca S. Bayo, Director
Division of Commission Clerk & Administrative Services
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850

**Re: Petition to amend Rule 25-7.037, F.A.C., by Associated Gas Distributors
of Florida, Inc.**

Dear Ms. Bayo:

Enclosed for filing with the Commission on behalf of Associated Gas Distributors of Florida, Inc. ("AGDF"), please find the original and 12 copies of AGDF's petition referenced above.

Thank you for your usual assistance.

Sincerely,



Ansley Watson, Jr.

AWjr/a
Enclosure

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition to amend Rule 25-7.037,)
F.A.C., by Associated Gas)
Distributors of Florida, Inc.)
_____)

Docket No.

Submitted for Filing:
1-12-06

**PETITION OF ASSOCIATED GAS
DISTRIBUTORS OF FLORIDA, INC.
TO AMEND RULE 25-7.037, F.A.C.**

Associated Gas Distributors of Florida, Inc. ("AGDF", "Petitioner" or the "Association"), by its undersigned attorneys and pursuant to §120.54(7), *Florida Statutes*, and Rule 28-103.006, *F.A.C.*, files this petition to amend Rule 25-7.037, *F.A.C.*, and in support thereof states:

1. The name, address and telephone number of the petitioner are:

Associated Gas Distributors of Florida, Inc.
c/o St. Joe Natural Gas Company, Inc.
P. O. Box 549
Port St. Joe, Florida 32457-0549
850-229-8216

2. The name and mailing address of the person to whom notices, orders and correspondence regarding this petition are to be sent are:

Ansley Watson, Jr.
Macfarlane Ferguson & McMullen
P. O. Box 1531
Tampa, Florida 33601-1531

3. Petitioner is a Florida not-for-profit corporation whose members are investor-owned natural gas local distribution companies ("LDCs") providing sales and

transportation delivery of natural gas throughout the State of Florida.¹ Each member is a public utility subject to the Commission's regulatory jurisdiction under Chapter 366, *Florida Statutes*. Because AGDF's member companies are regulated by the Commission, and because the rule which is the subject of this petition applies to each such member company, AGDF has a substantial interest in such rule.

4. By this petition, AGDF seeks the Commission's initiation of rulemaking to amend Rule 25-7.037, *F.A.C.* (hereinafter, the "Rule"), a copy of which is attached to this petition as Exhibit A. The amendments to the Rule sought by AGDF are attached to this petition as Exhibit B.

5. The reasons for the amendments to the Rule sought by Petitioner are as follow:

- A. The Rule could be interpreted to impose requirements on LDCs with respect to matters over which they have no control and is overly broad.**

AGDF's understanding is that the intent of the Rule was to require notice to customers, and an inspection of appliances, in cases where an LDC used propane for peak shaving, since propane has characteristics that differ from those of natural gas. The Rule, however, is not so limited. It does not mention propane and could be read to impose responsibility on an LDC for matters over which the LDC has no control. The amendment proposed by AGDF would simply limit the scope of the Rule, and make clear that its requirements are applicable only when an LDC itself makes

¹ AGDF's member companies are the Florida Division of Chesapeake Utilities Corporation, Florida City Gas, Florida Public Utilities Company, Peoples Gas System, St. Joe Natural Gas Company, Inc., Indiantown Gas Company, Inc. and Sebring Gas System, Inc.

changes to the characteristics of the gas it delivers to its customers (e.g., uses propane for peak shaving).

- B. Unless an LDC should elect to use propane for peak shaving, or take some other similar action, it has no control over the heating value and other characteristics of the gas it delivers to its customers and the predicate for applying the Rule's requirements to circumstances other than such actions on the part of the LDC is faulty.**

The gas delivered to Florida customers by LDCs subject to the Rule is received from the interstate pipelines to which all the Florida LDCs' systems are interconnected. The quality and other characteristics of the gas received by these Florida LDCs from the interstate pipelines are beyond the control of the LDCs receiving it because the gas is a blend of different supplies delivered into the interstate pipelines at various points along the Gulf coast and within peninsular Florida. These supplies are delivered into the pipelines by various suppliers not only for the accounts of the LDCs, but also for the accounts of their transportation customers and the pipelines' direct end-use customers. For example, Peoples Gas System (an AGDF member company which is the largest by far of Florida's LDCs) only purchases approximately 13.2% of the total annual quantity of gas delivered into its system. This is approximately 1.2% of the total annual throughput of Florida's major interstate pipelines.

The predicate for the Rule as currently written could be interpreted to be that the LDCs subject to its requirements are the entities that can "make changes" to the characteristics of the gas they deliver to their customers. That is simply not the case unless they use propane for peak shaving (or

take some other similar action). Since the LDCs subject to the Rule's requirements have no control over the characteristics of the gas they deliver to their customers, the predicate for the Rule's requirements is faulty.²

C. Unless the Rule is amended to apply only to an LDC's taking action to vary the composition of the gas it delivers (e.g., using propane for peak shaving), it could be interpreted as imposing obligations on LDCs with which, as a practical matter, they may not be able to comply.

As previously indicated, unless an LDC is using propane for peak shaving (or taking some other affirmative action to vary the composition of the gas it delivers), it has no control over the characteristics of the gas it delivers to its customers. Standards for some of the more important characteristics are set forth in the FERC tariffs of the interstate pipelines with which Florida LDCs are interconnected. Some (but not all) major characteristics of the gas are measured by the pipeline delivering the gas into the LDC's distribution system.³ Although gas quality information is posted on interstate pipelines' bulletin boards, the postings are not a complete analysis of the quality of the gas, nor are they measured at each

² The Rule's requirements may have been rational, and Florida's LDCs may have been able to comply, prior to natural gas's becoming available in Florida in 1959 when the Florida Gas Transmission Company ("FGT") pipeline first became operational. Before the advent of the pipeline in Florida, the state's LDCs manufactured the gas they distributed to their customers. However, none of the LDCs subject to the Rule's requirements has manufactured the gas they distribute in over four decades. Unless they were to use propane for peak shaving, they no longer have any ability to vary the heating value and other characteristics of the gas they deliver.

While the Rule was adopted prior to transportation becoming available on the interstate pipelines serving Florida, transportation has had no effect on the inability of an LDC to control the characteristics of the gas it delivers. Prior to and after transportation's availability, an LDC has had to accept whatever gas was delivered by the interstate pipelines.

³ The interstate pipelines with which AGDF's member companies are interconnected generally measure BTU (higher heating value), CO₂, N₂, specific gravity, methane, ethane, propane, I-butane, N-butane, I-pentane, C₆, C₇, H₂, helium and oxygen.

point on the pipeline. . Additionally, LDCs have no opportunity to seek Commission approval, make notifications or adjust appliances because the gas quality postings are after the gas has entered into the system of LDCs. Even if the LDCs installed quality monitoring equipment on their systems it would only provide notification that a change has occurred.

Moreover, assuming the LDC had notice that some change in the characteristics of the gas it was delivering "would impair the safe, efficient utilization of the gas in the customer's appliances," it would likely be a practical impossibility for the LDC to comply with the Rule's requirement to inspect and adjust the appliances of *all* customers within a meaningful time frame. For example, Peoples Gas System has estimated it would take approximately five months, and cost approximately \$30 million, to inspect and adjust the approximately 600,000 different appliances used by its customers throughout the State. Peoples is only one of the LDCs subject to the Commission's jurisdiction.

The circumstances described above would not be involved in the case of an LDC that took some action such as using propane for peak shaving, and the Rule should be amended to limit its application only to affirmative actions by an LDC.

6. Unless the Rule is amended as proposed by Petitioner, it cannot be supported by logic and its requirements will be irrational. Unless the Rule is amended as proposed by Petitioner, its requirements will continue to be arbitrary and capricious, and

therefore an invalid exercise of delegated legislative authority. §120.52(8)(e), *Florida Statutes*.

7. Petitioner's proposed changes to the Rule recognize that the LDCs to which it applies have no control over the characteristics of the gas they receive from interconnecting interstate pipelines, and subsequently deliver to their customers in Florida. They continue to recognize that an LDC bears responsibility to its customers if it makes changes in the gas it is delivering to its customers. The proposed changes limit the application of the rule to that action alone.

WHEREFORE, Petitioner prays the Commission will initiate rulemaking to amend Rule 25-7.037, *F.A.C.*, to read as set forth in Exhibit B to this petition.

Respectfully submitted,



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Attorneys for Associated Gas Distributors of
Florida, Inc.

25-7.037 Change in Character of Service

Any changes in heating value, pressure, specific gravity, gas composition, or other condition or characteristic which would impair the safe, efficient utilization of the gas in the customer's appliances shall not be made without the prior approval of the Commission and without adequate notice to customers. Any such change shall be accompanied by a general inspection and adjustment of all appliances that would be affected thereby to the extent necessary that the appliance may operate as efficiently and give as good service as was possible before the change. This shall be done promptly, without direct charge, and with a minimum of inconvenience to the customer.

Specific Authority 366.05 FS. Law Implemented 366.05(1), 366.03 FS. History-Repromulgated 1-8-75, 5-4-75, Formerly 25-7.37.

25-7.037 Change in Character of Service

A utility shall not make any Any changes in heating value, pressure, specific gravity, gas composition, or other condition or characteristic of the gas it delivers which would impair the safe, efficient utilization of the gas in ~~the customer's~~ customers' appliances ~~shall not be made~~ without tariff revisions setting forth the changes, the prior approval of the Commission, and ~~without~~ adequate notice to customers. Any such change by the utility shall be accompanied by a general inspection and adjustment of all appliances that would be affected thereby to the extent necessary that ~~the appliance~~ such appliances may operate as efficiently and give as good service as was possible before the change. This shall be done promptly, without direct charge, and with a minimum of inconvenience to the customer.