

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for approval of amendments to special contract with Polk Power Partners, L.P., by Florida Division of Chesapeake Utilities Corporation.

DOCKET NO. 150172-GU  
ORDER NO. PSC-15-0501-PAA-GU  
ISSUED: October 26, 2015

The following Commissioners participated in the disposition of this matter:

ART GRAHAM, Chairman  
LISA POLAK EDGAR  
RONALD A. BRISÉ  
JULIE I. BROWN  
JIMMY PATRONIS

NOTICE OF PROPOSED AGENCY ACTION  
ORDER APPROVING SPECIAL CONTRACT AMENDMENTS

BY THE COMMISSION:

NOTICE is hereby given by the Florida Public Service Commission that the action discussed herein is preliminary in nature and will become final unless a person whose interests are substantially affected files a petition for a formal proceeding, pursuant to Rule 25-22.029, Florida Administrative Code (F.A.C.).

Background

On July 27, 2015, the Florida Division of Chesapeake Utilities Corporation (Chesapeake or Company) filed a petition for approval of amendments to its special contracts with Polk Power Partners, L.P. (Polk). The most recent amendments were approved in 2006 and expire at the end of 2015.<sup>1</sup> In this proceeding, Chesapeake seeks approval of amendments to the Delivery Point Lease, the Capacity Relinquishment Agreement, and the Gas Transportation Service Special Contract. Commission staff issued two data requests.

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<sup>1</sup> Order No. PSC-06-0143-PAA-GU, issued February 27, 2006, in Docket No. 050835-GU, In re: Petition for approval of Amendment No. 2 to gas transportation agreement (special contract), master gas transportation service termination agreement, delivery point lease agreement and letter agreement: CFG Transportation Aggregation Service between Florida Division of Chesapeake Utilities Corporation and Polk Power Partners, L.P.

Chesapeake has provided gas transportation service to Polk's 115 megawatt cogeneration facility for over 20 years.<sup>2</sup> In 1993, Polk established a direct connection with Florida Interstate Gas Transmission's (FGT) interstate pipeline and currently obtains the majority of the gas it needs to operate its cogeneration facility from FGT. According to Chesapeake, Polk is fully capable of entirely bypassing Chesapeake in favor of obtaining all of its gas requirements through its direct connect with FGT at a rate which would make bypass an attractive option to Polk.

Rule 25-9.034(1), F.A.C., requires that whenever a special contract is entered into by a utility for the sale of its product or services in a manner or subject to the provisions not specifically covered by its filed regulations and standard approved rate schedules, such contract must be approved by this Commission prior to its execution.

We have jurisdiction over this matter pursuant to Section 366.05, Florida Statutes.

### Decision

Chesapeake seeks approval of amendments to the Delivery Point Lease, the Capacity Relinquishment Agreement, and the Gas Transportation Service Special Contract. The three contracts are discussed below.

#### Delivery Point Lease

This contract designates Chesapeake as Polk's delivery point operator at the point where Polk's gas lines connect to FGT. As the delivery point operator, Chesapeake is permitted to combine the volumes delivered to Polk in order to manage gas deliveries. By combining the deliveries, gas over burns and under burns can be offset, which could serve to reduce or eliminate potential penalties imposed by pipelines. The proposed amendment, as approved herein, extends the contract term from December 2015 to August 2024.

#### Capacity Relinquishment Agreement

This contract describes the terms under which Chesapeake agrees to relinquish to Polk certain firm capacity rights pursuant to Chesapeake's agreement with FGT. The proposed amendment, as approved herein, has two changes: it extends the contract term from December 2015 to August 2024; and it changes the capacity release commitment from a specific amount to a range, modifying the language to be more consistent with Federal Energy Regulatory Commission requirements for noticing capacity releases.

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<sup>2</sup> Order No. PSC-92-0201-FOF-GU, issued April 14, 1992, in Docket No. 920156-GU, In re: Petition by the Florida Division of Chesapeake Utilities Corporation for approval of Large Volume Contract Transportation Service Rate Schedule and Gas Transportation Agreement with Mulberry Energy Company, Inc.

Gas Transportation Service Special Contract

The proposed amendment, as approved herein, has two changes: it extends the contract term from December 2015 to August 2024; and it revises the proposed negotiated (confidential) rate, which covers the incremental cost of service.

Chesapeake explains that because of Polk's direct connection with FGT, Polk has been able to meet a majority of its need for gas directly from FGT, thus gradually reducing the amount it has obtained from Chesapeake. This results in a reduction of the capacity requirement on Chesapeake's system. According to Chesapeake, the amendment reflects the new and reduced level of capacity that Polk needs from Chesapeake. The proposed rate reflects a small reduction, which Chesapeake states recognizes the value of Polk as a customer as well as the risk of harm to Chesapeake and its ratepayers if Polk were to bypass Chesapeake. Chesapeake provides a benefit to Polk by serving as a second source of gas.

The incremental cost of service study results in an annual cost of \$176,110. This amount includes operations and maintenance expense, depreciation, taxes, and return on investment. Chesapeake asserts that the proposed rate allows Chesapeake to appropriately recover its ongoing costs to serve Polk.

As cited within Chesapeake's Petition, we have previously found that:

Having industrial customers on the system greatly benefits all users, particularly the residential customers. Customers benefit because large load users are able to absorb a greater portion of the fixed cost necessary to provide the service; as a result, rates are lower, especially for small load users. Conversely, losing industrial customers who have alternative fuel sources or viable bypass options would pose a greater burden on all ratepayers, and could result in higher rates.<sup>3</sup>

We hereby approve Chesapeake's Petition for approval of contract amendments because they allow Chesapeake to continue its relationship with Polk through August 2024, prevent bypass, and establish a rate that covers the incremental cost of service, thereby benefiting Chesapeake's general body of ratepayers.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that the Florida Division of Chesapeake Utilities Corporation's Petition for Approval of Contract Amendments, as set forth herein, is hereby approved. It is further

ORDERED that the provisions of this Order, issued as proposed agency action, shall become final and effective upon the issuance of a Consummating Order unless an appropriate petition, in the form provided by Rule 28-106.201, Florida Administrative Code, is received by

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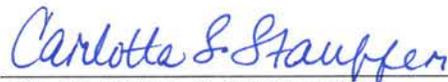
<sup>3</sup> Order No. PSC-10-0029-PAA-GU, issued January 14, 2010, in Docket No. 090125-GU, In re: Petition for increase in rates by Florida Division of Chesapeake Utilities Corporation.

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the Commission Clerk, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on the date set forth in the "Notice of Further Proceedings" attached hereto. It is further

ORDERED that in the event this Order becomes final, this docket shall be closed.

By ORDER of the Florida Public Service Commission this 26th day of October, 2015.



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CARLOTTA S. STAUFFER  
Commission Clerk  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, Florida 32399  
(850) 413-6770  
[www.floridapsc.com](http://www.floridapsc.com)

Copies furnished: A copy of this document is provided to the parties of record at the time of issuance and, if applicable, interested persons.

KRM

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 that is available under Section 120.57, 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 will be granted or result in the relief sought.

Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

The action proposed herein is preliminary in nature. Any person whose substantial interests are affected by the action proposed by this order may file a petition for a formal proceeding, in the form provided by Rule 28-106.201, Florida Administrative Code. This petition must be received by the Office of Commission Clerk, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on November 16, 2015.

In the absence of such a petition, this order shall become final and effective upon the issuance of a Consummating Order.

Any objection or protest filed in this/these docket(s) before the issuance date of this order is considered abandoned unless it satisfies the foregoing conditions and is renewed within the specified protest period.