State of Florida

# Public Service Commission

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



**DATE:** July 18, 2013

**TO:** Office of Commission Clerk (Cole)

**FROM:** Division of Economics (King, Draper) EJD
Office of the General Counsel (Young) KLY JSC J.W.D

**RE:** Docket No. 120313-GU – Petition for approval of transportation service agreement with Florida Public Utilities Company, by Peninsula Pipeline Company, Inc.

**AGENDA:** 07/30/13 – Regular Agenda – Proposed Agency Action – Interested Persons May Participate

**COMMISSIONERS ASSIGNED:** All Commissioners

**PREHEARING OFFICER:** Administrative

**CRITICAL DATES:** None

**SPECIAL INSTRUCTIONS:** None

**FILE NAME AND LOCATION:** S:\PSC\ECO\WP\120313.RCM.DOC

## Case Background

On December 14, 2012, Peninsula Pipeline Company, Inc. (Peninsula) filed a petition seeking approval of a Firm Transportation Service Agreement (Agreement) with Florida Public Utilities Company (FPUC). On February 7, 2013, Peninsula filed an amended agreement correcting an error in the Monthly Reservation Charge contained in the Agreement. Both FPUC and Peninsula are corporate subsidiaries of Chesapeake Utilities Corporation (CUC); therefore, Commission approval of the proposed agreement is required pursuant to Section 368.105, Florida Statutes (F.S.) and Order No. PSC-07-1012-TRF-GP.[1]

Peninsula qualifies as a natural gas transmission company as defined in Section 368.103(4), F.S.[2] Peninsula is in the business of actively pursuing transportation agreements with gas customers, and constructing and operating pipeline laterals connecting to Federal Energy Regulatory Commission (FERC) regulated interstate transmission pipelines such as Florida Gas Transmission Company (FGT). Peninsula's customers may include industrial, electric generation, or other large volume customers. Peninsula does not engage in the sale of natural gas.

FGT has been attempting to sell its small diameter laterals in Florida, such as the Riviera Lateral, which is used to transport gas from FGT's interstate pipeline near the Florida Turnpike to FPUC's distribution system in Riviera Beach. FGT and Peninsula entered into bilateral negotiations for the purchase of the Riviera Lateral. The purchase does not require FERC approval, however, FERC approval is required for FGT to hand off gas to Peninsula's system for transportation. If FERC rejects FGT's petition, FGT and Peninsula will endeavor to remedy FERC's concerns.

Once the Riviera Lateral is owned by Peninsula, the gas will pass through Peninsula's system via this lateral, and the proposed agreement between Peninsula and FPUC will be required. Peninsula explained that it expects FERC to rule by October 2013, and that for planning purposes it requires a Commission decision on the Agreement while the FERC ruling is also pending. The Commission has jurisdiction over this matter pursuant to Sections 366.03, 366.04, 366.05, 366.06, and 368.105, Florida Statutes.

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[1] Order No. PSC-07-1012-TRF-GP, issued December 21, 2007, in Docket No. 070570-GP, In re: Petition for approval of natural gas transmission pipeline tariff by Peninsula Pipeline Company, Inc. Pursuant to its approved tariff, Sheet 12, Section 4(d), Peninsula is allowed to enter into certain pipeline projects without express Commission approval. The tariff does not include rates and charges, as those would be negotiated individually based on market conditions and the specific needs of each customer in accordance with Section 368.105, F.S.

[2] In Order No. PSC-06-0023-DS-GP, issued January 9, 2006, in Docket No. 050584-GP, In re: Petition for declaratory statement by Peninsula Pipeline Company, Inc. concerning recognition as a natural gas transmission company under Section 368.101, F.S., et seq. the Commission found that Peninsula, as a corporation with a separate legal identity, may qualify as a "natural gas transmission company" as defined in section 368.103(4), Florida Statutes, even though its parent corporation, Chesapeake, is an entity that owns or operates facilities primarily for the local distribution of natural gas, and a sister corporation is regulated by FERC.

## Discussion of Issues

**Issue 1**: Should the Commission approve the amended Agreement between Peninsula and FPUC as filed on February 7, 2013?

**Recommendation**: Yes, the Commission should approve the amended Agreement between Peninsula and FPUC as filed on February 7, 2013, contingent upon FERC approval of FGT's request to transfer gas to Peninsula's system. The Agreement should become effective after Peninsula notifies staff, in writing, that FGT has received FERC approval. (King, Draper)

**Staff Analysis**: As noted in the case background, FPUC and Peninsula are corporate affiliates; therefore, the Agreement must be approved by the Commission prior to implementation pursuant to Order No. PSC-07-1012-TRF-GP and Section 368.105, F.S. In order to evaluate the Agreement, staff obtained additional information from the parties via conference calls and several data requests. FPUC explained that it needs to enhance its ability to transport more natural gas along the interstate pipeline for delivery to its distribution system. Current and expected future demand in the Riviera Beach area is causing certain constraints with respect to the amount of FGT firm capacity available to provide reliable service.

To remedy this issue FPUC first determined the additional daily dekatherms it needed to meet customer demand. FPUC next identified four potential solutions: 1) contract for additional FGT capacity or move existing FGT capacity to the Riviera Beach area; 2) purchase the Riviera Lateral; 3) construct a new lateral from FGT's pipeline to the Riviera Beach area; and 4) allow the FGT lateral to be purchased by Peninsula and contract with Peninsula to meet demand. FPUC rejected options 1, 2, and 3 because they were either not cost effective, not technically feasible, and/or may have caused more problems than they resolved. Attachment A provides detailed explanations as to why these three options were rejected.[3]

Option 4 - Contract with Peninsula

FPUC determined that allowing the FGT lateral to be purchased by Peninsula and securing additional capacity on the Riviera Lateral was the best option, especially in light of the fact that FGT has been attempting to sell its small laterals. The negotiated charge and largest daily quantity of gas Peninsula is obligated to transport to FPUC is confidential.[4] FPUC also noted that Peninsula committed to rebuild the existing city gate station and will build a new FPUC interconnect point on the lateral at no additional cost to FPUC. Thus, FPUC asserts when cost and benefits were considered, option four was the most prudent option available to enhance FPUC's ability to serve the Riviera Beach area.

After reviewing the cost data, the responses to the data requests, and the requirements of Section 368.105, F.S., staff agrees that contracting for service with Peninsula is the most reasonable option. First, if FPUC had purchased the lateral or constructed a new lateral it would have incurred significant capital costs.

[3] Detailed cost analysis for each option was provided in Confidential Document No. 01818-13.
[4] The rate and additional dekatherms to be purchased are contained in Confidential Document No. 01818-13.

Second, the amount of capacity of the Riviera Lateral (approximately 5.4 miles of 12" diameter line and approximately 1.3 miles of 8" diameter line) is substantially more than what FPUC has contracted for through its agreement with Peninsula. FPUC can purchase only the amount of capacity it needs to provide service to this area of its distribution system customers, thus efficiently utilizing the infrastructure without unduly burdening its customers. Peninsula will be able to market the remaining capacity to potential customers in the area.

Third, FPUC's payments to Peninsula are eligible for recovery through the Purchased Gas Adjustment (PGA) mechanism consistent with other gas transmission pipeline costs incurred by FPUC. FPUC provided information showing that the impact on the PGA cap will be minor.[5]

Forth, the parties assert that the Agreement was developed through an "arm's length" transaction and filed an affidavit, as required by Section 368.105, F.S., that states that neither party had an unfair advantage during the negotiations and that competition does or did exist at the time that the Agreement was entered into by the parties.

Conclusion: Staff notes that the Commission has previously approved two transportation service agreements for Peninsula in Order No. PSC-12-0230-PAA-GU.[6] After reviewing the options available to FPUC, including the cost analyses provided to staff by FPUC, and based on the representation in those documents, staff believes the Agreement is cost effective, reasonable, meets the requirements of Section 368.105, F.S., and benefits FPUC's customers. Therefore, staff recommends the Commission approve the amended Agreement between Peninsula and FPUC as filed on February 7, 2013, contingent upon FERC approval of FGT's request to transfer gas to Peninsula's system. The Agreement should become effective after Peninsula notifies staff, in writing, that FGT has received FERC approval.

[5] The projected $/therm impact to the PGA factor was provided under a claim of confidentiality.

[6] Order No. PSC-12-0230-PAA-GU, issued May 9, 2012, in Docket No. 110271-GU, In re: Petition for approval of service agreement with Florida Public Utilities Company by Peninsula Pipeline Company, Inc. and Docket No. 110277-GU, In re: Joint petition for approval of territorial agreement in Nassau and Duval Counties by Peoples Gas System and Florida Public Utilities Company; gas transportation agreement by Peoples Gas System and Peninsula Pipeline Company, Inc.; and application for approval of tariff revisions to reflect service in Nassau and Okeechobee Counties, by Florida Public Utilities Company

**Issue 2**: Should this docket be closed?

**Recommendation**: Yes. If no protest is filed by a person whose substantial interests are affected within 21 days of the issuance of the Order, this docket should be closed upon the issuance of a Consummating Order. (Young)

**Staff Analysis**: If no protest is filed by a person whose substantial interests are affected within 21 days of the issuance of the Order, this docket should be closed upon the issuance of a Consummating Order.

Attachment A

## FPUC's Explanation for Rejecting Options 1, 2, and 3

### Option 1- Contract for Additional FGT Capacity or Move Existing Capacity to Riviera Beach

Option 1 was rejected for two reasons. First, FPUC believes this is not a cost effective option based upon the rates for FTS-3 capacity with FGT and would have required a contract term of 20 years. Second, FGT's system is configured in such a way that it will not allow for delivery points to be moved from the north further south. FGT's South Florida system is fully subscribed and FGT cannot deliver, on a firm basis, additional capacity into the Riviera Beach area. FPUC could potentially move some of its capacity from its southern delivery points (in the West Palm Beach area) north to the Riviera Beach area; however, this capacity is needed in the West Palm Beach area, and if moved, would soon result in capacity constraints in the southern area of the system. This option (moving delivery points from further south up to Riviera Beach) is, therefore, not a viable solution.

### Option 2 – FPUC Purchases the Riviera Lateral

FPUC estimated the total cost to purchase the lateral and calculated the total cost of service.[7] The FGT lateral being purchased consists of 12" and 8" steel main. FPUC currently does not have 12" steel main in its existing distribution system, thus new equipment and employee training would be needed. These costs were not factored into the cost of service study performed by FPUC. With or without these costs factored in, FPUC did not find this to be the most cost-effective option when compared to other options available.

### Option 3 - Construct a Lateral From FGT's Main Line to the Riviera Beach Area Instead of Purchasing the Existing FGT lateral

FPUC could construct a new lateral that would allow for additional natural gas to reach the Riviera Beach area from FGT's pipeline. The cost projections to construct the lateral and the annual cost of service for this option are proprietary. FPUC believes, as with Option 2, this is not the most cost-effective and efficient option when compared with other options available, particularly Option 4.

[7] See Confidential Document No. 01818-13.