

State of Florida



Public Service Commission

CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD
TALLAHASSEE, FLORIDA 32399-0850

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

DATE: February 22, 2024

TO: Office of Commission Clerk (Teitzman)

FROM: Division of Economics (P. Kelley, Hampson) *EJD*
Office of the General Counsel (Dose) *JSC*

RE: Docket No. 20230135-GU – Petition for approval of transportation service agreement with Florida Public Utilities Company by Peninsula Pipeline Company, Inc.

AGENDA: 03/05/24 – Regular Agenda – Proposed Agency Action – Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Clark

CRITICAL DATES: None

SPECIAL INSTRUCTIONS: None

Case Background

On December 14, 2023, Peninsula Pipeline Company, Inc. (Peninsula) filed a petition seeking approval of two firm transportation service agreements (Agreements) between Peninsula and Florida Public Utilities Company (FPUC), collectively the Parties. The purpose of the Agreements is to increase supply capability and enhance reliability in Boynton Beach and New Smyrna Beach, Florida. Peninsula operates as an intrastate natural gas transmission company as defined by Section 368.103(04), Florida Statutes (F.S.).¹ FPUC is a local distribution company subject to the regulatory jurisdiction of the Commission pursuant to Chapter 366, F.S. FPUC provides natural gas service to residential, commercial, and industrial customers in Palm Beach

¹ 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.*

and Volusia County, and receives deliveries of natural gas to serve these customers over interstate transmission pipelines owned by Florida Gas Transmission Company, LLC (FGT).

By Order No. PSC-07-1012-TRF-GP, Peninsula received approval of an intrastate gas pipeline tariff that allows it to construct and operate intrastate pipeline facilities and to actively pursue agreements with natural gas customers.² Peninsula provides gas transportation service only; it does not engage in the sale of natural gas to customers. Pursuant to Order No. PSC-07-1012-TRF-GP, Peninsula is allowed to enter into certain gas transmission agreements without prior Commission approval.³ However, Peninsula is requesting Commission approval of the proposed Agreements as they do not fit any of the criteria enumerated in the tariff for which Commission approval would not be required.⁴ The Parties are subsidiaries of Chesapeake Utility Corporation, and agreements between affiliated companies must be approved by the Commission pursuant to Section 368.105, F.S., and Order No. PSC-07-1012-TRF-GP.

FPUC has proposed to recover its payments to Peninsula through the Purchased Gas Adjustment (PGA) and swing service rider mechanisms.⁵ The PGA allows FPUC to periodically adjust the price of natural gas supplied to its customer to reflect the actual cost of gas purchased and delivered on behalf of the customers. The swing service rider allows FPUC to recover intrastate capacity costs from their transportation customers and is a cents per therm charge that is included in the monthly customer gas bill of transportation customers. While FPUC would incur costs associated with these service expansions, new load added to the system should help spread the costs over a larger customer base.

Pursuant to the proposed Agreements (Attachments A and B to this recommendation), Peninsula would construct, own, and operate a new natural gas pipeline and acquire from FPUC an existing gate station with FGT for the Boynton Beach Project. The proposed projects would enable FPUC to serve Boynton Beach and New Smyrna Beach and potential future gas customers in Palm Beach and Volusia County, respectively. Furthermore, maps of the proposed projects are included in Attachment C to this recommendation.

During the evaluation of the petition, staff issued a data request to the Parties for which responses were received on February 7, 2024.⁶ The Commission has jurisdiction over this matter pursuant to Sections 366.05(1), 366.06, and 368.105, F.S.

² 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.*

³ Peninsula Pipeline Company, Inc., Intrastate Pipeline Tariff, Original Sheet No. 11, Section 3.

⁴ Peninsula Pipeline Company, Inc., Intrastate Pipeline Tariff, Original Sheet No. 12, Section 4.

⁵ Joint Responses to Staff's First Data Request, Document No. 00631-2024, Response No. 3.

⁶ Joint Responses to Staff's First Data Request, Document No. 00631-2024.

Discussion of Issues

Issue 1: Should the Commission approve the proposed firm transportation service agreement dated December 11, 2023, between FPUC and Peninsula?

Recommendation: Yes, the Commission should approve the proposed firm transportation service agreement associated with the Boynton Beach project dated December 11, 2023, between FPUC and Peninsula. The firm transportation service agreement is reasonable and meets the requirements of Section 368.105, F.S. Furthermore, the proposed firm transportation service agreement benefits FPUC's current and potential future customers by ensuring that there is a sufficient supply of natural gas to Boynton Beach, Florida. (P. Kelley, Hampson)

Staff Analysis:

Proposed Transportation Service Agreement for Boynton Beach

The Parties have entered into the proposed firm transportation service agreement to enable FPUC to reinforce its Boynton Beach distribution system and meet increased natural gas demand in Palm Beach County. The proposed Agreement has the added benefit of providing FPUC with an additional source of gas (via the Peninsula pipeline) and enhancing an existing gate station.

The proposed Agreement specifies an initial term of 20 years and thereafter shall be extended on a year-to-year basis, unless either party gives no less than 90 days of written notification of termination. If either party desires to negotiate modifications to the rates or terms of this Agreement, they may do so no less than 120 days prior to expiration of the current active term, subject to Commission approval of the amendment

Proposed Boynton Beach Expansion Project

Referring to the map of the proposed project, phase 1 of the project, as shown by the red line, starting at an upgraded Peninsula gate station interconnection with FGT, Peninsula would construct 3 miles of 4-inch coated steel pipeline traveling east along Boynton Beach Blvd which would conclude at a Peninsula District Regulator Station (DRS).

Phase 2 of the project, as depicted by the pink line, would start at the Peninsula DRS. Peninsula would construct 2 miles of 4-inch coated steel pipeline traveling east along Boynton Beach Blvd, and would conclude at the FPUC DRS. Both phases are projected to be completed in the first quarter of 2025.

In response to staff's data request, the Parties stated that FPUC did not issue Formal Request for Proposals to other entities.⁷ FPUC explained that in previous discussions and requests with FGT for other projects, FGT has declined to bid on projects related to constructing, owning, and operating laterals such as the proposed expansion project in this petition, which are not a focus of FGT's expansion activities.

⁷ Joint Responses to Staff's First Data Request, Document No. 00631-2024, Response No. 5.

Anticipated System Benefits

In paragraph 2 of the petition, the Parties assert that the proposed project is needed to ensure sufficient additional gas supply and would provide operational support to FPUC's system. The Parties explained that construction of the pipeline is necessary because the existing infrastructure is not adequate to serve the current communities. The Parties further explained that the proposed project would reinforce FPUC's Boynton Beach distribution system with an additional source of interstate gas with the potential to provide nature gas service to future customers in Palm Beach County.

Negotiated Monthly Reservation Payments to Peninsula

In paragraph 23 of the petition, the Parties expressed that the negotiated monthly reservation charge contained in the proposed Agreement is consistent with market rates, because the rates are substantially the same as rates set forth in similar agreements as required by Section 368.105(3)(b), F.S. The Parties explained that Peninsula would recover the pipeline construction costs through the monthly reservation charge to FPUC, as shown in Exhibit A to the proposed Agreement. The monthly reservation charge is designed to recover costs such as, but not limited to, engineering, permitting, materials, and installation costs associated with the pipeline and related facilities, ongoing maintenance including Pipeline and Hazardous Materials Safety Administration compliance, safety requirements, property taxes, gas control, and Peninsula's return on investment.

Conclusion

Based on the petition and the Parties' responses to staff's data request, staff recommends that the Commission should approve the proposed firm transportation service agreement associated with the Boynton Beach project, dated December 11, 2023, between FPUC and Peninsula. The firm transportation service agreement is reasonable and meets the requirements of Section 368.105, F.S. Furthermore, the proposed firm transportation service agreement benefits FPUC's current and potential future customers by ensuring that there is an uninterrupted supply of natural gas to Boynton Beach, Florida.

Issue 2: Should the Commission approve the proposed amendment to the firm transportation service agreement associated with the New Smyrna Beach project, dated December 11, 2023, between FPUC and Peninsula?

Recommendation: Yes, the Commission should approved the proposed amendment to the firm transportation service agreement associated with the New Smyrna Beach project dated December 11, 2023, between FPUC and Peninsula. The amendment to the firm transportation service agreement is reasonable and meets the requirements of Section 368.105, F.S. Furthermore, the proposed amendment to the firm transportation service agreement benefits FPUC's current and potential future customers by ensuring that there is a sufficient supply of natural gas to New Smyrna Beach, Florida (P. Kelley, Hampson)

Staff Analysis:

Proposed Amendment to the Transportation Service Agreement for New Smyrna Beach

By Order No. PSC-2017-0498-PAA-GU, Peninsula received approval of a firm transportation service agreement that allows it to construct a natural gas pipeline in the New Smyrna Beach area and relocate an existing gate station.⁸ The proposed New Smyrna Beach project and associated Agreement are an amendment to the 2017 firm transportation agreement.

The Parties have entered into the proposed amendment to the 2017 firm transportation service agreement to enable FPUC to reinforce its New Smyrna Beach distribution system and meet increased natural gas demand in Volusia County. The proposed Amendment has the added benefit of providing FPUC with an additional source of gas (via the Peninsula pipeline), an additional interconnect, and four new DRSs.

The proposed amendment specifies an initial term of 20 years and thereafter shall be extended on a year-to-year basis, unless either party gives no less than 90 days of written notification of termination. If either party desires to negotiate modifications to the rates or terms of this amendment, they may do so no less than 120 days prior to expiration of the current active term, subject to Commission approval of the amendment.

Proposed New Smyrna Beach Expansion Project

Referring to the map of the proposed project, starting at a new DRS interconnection with FGT on South Ridgewood Ave in Volusia County, Peninsula would construct 14.8 miles of 4-inch coated steel pipeline and four new DRSs as shown on the red line. The project is projected to go in-service in the first quarter of 2025. The Parties assert that the selected route of the New Smyrna Beach expansion project provides the largest benefit to the area, to FPUC, and its customers.

In response to staff's data request, the Parties stated that FPUC did not issue Formal Request for Proposals to other entities.⁹ FPUC explained that in previous discussions and requests with FGT for other projects, FGT has declined to bid on projects related to constructing, owning, and

⁸ Order No. PSC-2017-0498-PAA-GU, issued December 29, 2017, in Docket No. 20170193-GU, *In re: Petition for approval of transportation service agreement with Florida Public Utilities Company, by Peninsula Pipeline Company, Inc.*

⁹ Joint Responses to Staff's First Data Request, Document No. 00631-2024, Response No. 5.

operating laterals such as the proposed expansion project in this petition, which are not a focus of FGT's expansion activities.

Anticipated System Benefits

In paragraph 17 of the petition, the Parties expressed that this new project builds upon the original Peninsula pipeline system in order to reinforce portions of FPUC's system in the southern portion of New Smyrna Beach, as well as areas along the project route that have also experienced growth since the approval of the original project. The Parties assert that construction of the pipeline is necessary because the existing infrastructure is not adequate to serve the current community. The Parties assert that the proposed project would reinforce FPUC's New Smyrna Beach distribution system with an additional source of interstate gas with the potential to provide nature gas service to future customers in Volusia County.

FPUC explained that during the high demand months of the winter, it currently does not have sufficient capacity to meet its design-day needs in New Smyrna Beach. The New Smyrna Beach system experiences low pressure issues, therefore, FPUC is using compressed natural gas (CNG) to supplement supply in the area during the high demand months to ensure adequate supply. The Parties expressed that the Peninsula expansion of the existing service would provide a long-term solution for the system in New Smyrna Beach, reducing the need for seasonal CNG support in the area.¹⁰

Negotiated Monthly Reservation Payments to Peninsula

In paragraph 23 of the petition, the Parties assert that the negotiated monthly reservation charge contained in the proposed amendment is consistent with market rates, because the rate are substantially the same as rates set forth in similar agreements as required by Section 368.105(3)(b), F.S. The Parties explained that Peninsula would recover the pipeline and DRS construction costs through the monthly reservation charge to FPUC as shown in Exhibit A to the proposed Agreement. The monthly reservation charge is designed to recover costs such as, but not limited to, engineering, permitting, materials, and installation costs associated with the pipeline and related facilities, ongoing maintenance including Pipeline and Hazardous Materials Safety Administration compliance, safety requirements, property taxes, gas control, and Peninsula's return on investment.

Conclusion

Based on the petition and the Parties' responses to staff's data request, staff recommends that the Commission should approve the proposed amendment to the firm transportation service agreement associated with the New Smyrna Beach project, dated December 11, 2023, between FPUC and Peninsula. The firm transportation service agreement is reasonable and meets the requirements of Section 368.105, F.S. Furthermore, the proposed firm transportation service agreement benefits FPUC's current and potential future customers by ensuring that there is a sufficient supply of natural gas to New Smyrna Beach, Florida.

¹⁰ Joint Responses to Staff's First Data Request, Document No. 00631-2024, Response No. 6.

Issue 3: Should this docket be closed?

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

Staff Analysis: If no protest is filed by a person whose substantial interest 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

Transportation Service Agreement – Boynton Beach

PENINSULA PIPELINE COMPANY, INC.
FIRM TRANSPORTATION SERVICE

THIS AGREEMENT entered into this December 11, 2023, by and between Peninsula Pipeline Company, Inc., a corporation of the State of Delaware (herein called "Company" or "PPC"), and the Florida Public Utilities Company, a corporation of the State of Florida (herein called "Shipper" or "FPUC"). PPC and FPUC are sometimes referred to herein individually as a "Party" and collectively as "Parties."

WITNESSETH

WHEREAS, Company is engaged in discussions to acquire from Shipper an existing gate station located just southeast of the intersection of Florida's Turnpike and Boynton Beach Boulevard in Palm Beach County, Florida ("Boynton Beach gate station") and intends to execute a Purchase and Sale Agreement for the said acquisition; and

WHEREAS, Shipper desires to obtain Firm Transportation Service ("FTS") from Company in the event Company acquires the Boynton Beach gate station; and

WHEREAS, Company desires to provide FTS to Shipper in the event Company acquires the Boynton Beach gate station, in accordance with the terms hereof; and

WHEREAS, Shipper desires Company to construct a project that will allow Shipper to serve customers within its service area with natural gas service and Company is willing to construct the project and points of delivery; and

WHEREAS, Company intends to construct the desired project, called the Boynton Beach Pipeline Expansion and Reinforcement Project ("Project"), in Palm Beach County, Florida, in two separate phases. As specified in Exhibit A attached herein, Phase I of the Project will upgrade the Boynton Beach gate station and extend a steel pipeline to a new point of delivery from the Florida Gas Transmission ("FGT") pipeline and Phase II will construct an additional steel pipeline extension with a new delivery point to Shipper's local distribution system.

NOW THEREFORE, in consideration of the premises and of the mutual covenants and agreements herein contained, the sufficiency of which is hereby acknowledged, Company and Shipper do covenant and agree as follows:

ARTICLE I
DEFINITION

Unless otherwise defined in this Agreement, all definitions for terms used herein have the same meaning as provided in Company's Tariff.

"In-Service Date" for either Phase of the Project means the date that Company has commenced commercial operations of that Phase, that construction of that Phase has been completed, and that the

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Phase has been inspected and tested as required by applicable law.

“Phase Notification” means the notification from the Shipper to begin construction of any additional route or routes associated with the Project.

ARTICLE II
QUANTITY & UNAUTHORIZED USE

2.1 The Maximum Daily Transportation Quantity (“MDTQ”) and the Maximum Hourly Transportation Percentage (“MHTP”) shall be set forth on Exhibit A attached hereto. The applicable MDTQ shall be the largest daily quantity of Gas, expressed in Dekatherms, which Company is obligated to transport on a firm basis and make available for delivery for the account of Shipper under this Agreement on any one Gas Day.

2.2 If, on any Day, the Shipper utilizes transportation quantities, as measured at the Point(s) of Delivery, in excess of the established MDTQ, as shown on Exhibit A, such unauthorized use of transportation quantities (per Dekatherm) shall be set forth on Exhibit A of this Agreement.

ARTICLE III
FIRM TRANSPORTATION SERVICE RESERVATION CHARGE

3.1 The Monthly Reservation Charge for Firm Transportation Service provided under this Agreement shall be as set forth in Exhibit A of this Agreement and shall be charged to the Shipper beginning on the In-Service Date and shall thereafter be assessed in accordance with the terms and conditions set forth herein.

3.2 The parties agree to execute and administratively file with the Florida Public Service Commission an affidavit, in the form provided in Company’s Tariff to comply with the provisions of the Natural Gas Transmission Pipeline Intrastate Regulatory Act.

3.3 If, at any time after the Execution Date (as herein defined) and throughout the term of this Agreement, the Company is required by any Governmental Authority (as that term is defined in Section 9.10) asserting jurisdiction over this Agreement and the transportation of Gas hereunder, to incur additional tax charges (including, without limitation, income taxes and property taxes) with regard to the service provided by Company under this Agreement, then Shipper’s Monthly Reservation Charge shall be adjusted and Exhibit A updated accordingly, and the new Monthly Reservation Charge shall be implemented immediately upon the effective date of such action, subject to Commission approval of the amendment. If Shipper does not agree to the adjusted Monthly Reservation Charge, Company shall no longer be required to continue to provide the service contemplated in this Agreement should an action of a Governmental Authority result in a situation where Company otherwise would be required to provide transportation service

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at rates that are not just and reasonable, and in such event the Company shall have the right to terminate this Agreement pursuant to the conditions set forth in Section D of the Rules and Regulations of Company's Tariff.

3.4 If, at any time after the Execution Date (as herein defined) and throughout the term of this Agreement, the Company is required by any Governmental Authority (as that term is defined in Section 9.10) asserting jurisdiction over this Agreement and the transportation of Gas hereunder, to incur additional capital expenditures with regard to the service provided by Company under this Agreement, other than any capital expenditures required to provide transportation services to any other customer on the pipeline system serving Shipper's facility, but including, without limitation, mandated relocations of Company's pipeline facilities serving Shipper's facility and costs to comply with any changes in pipeline safety regulations, then Shipper's Monthly Reservation Charge shall be adjusted and Exhibit A updated accordingly, and the new Monthly Reservation Charge shall be implemented immediately upon the effective date of such action, subject to Commission approval of the amendment. If Shipper does not agree to the adjusted Monthly Reservation Charge, Company shall no longer be required to continue to provide the service contemplated in this Agreement should an action of a Governmental Authority result in a situation where Company otherwise would be required to provide transportation service at rates that are not just and reasonable, and in such event the Company shall have the right to terminate this Agreement pursuant to the conditions set forth in Section D of the Rules and Regulations of Company's Tariff.

ARTICLE IV
TERM AND TERMINATION

4.1 Subject to all other provisions, conditions, and limitations hereof, this Agreement shall be effective upon its date of execution by both parties (the "Execution Date") and shall continue in full force for an initial period of twenty (20) years from the In-Service Date ("Initial Term"). For purposes of establishing the 20-year Initial Term, the In-Service Date will be the later of the In-Service Dates for Phase I and Phase II. After the Initial Term, the Agreement shall be extended on a year-to-year basis (each a "Renewed Term" and, all Renewed Terms together with the Initial Term, the "Current Term"), unless either party gives written notice of termination to the other party, not less than (90) days prior to the expiration of the Current Term. This Agreement may only be terminated earlier in accordance with the provisions of this Agreement and the parties' respective rights under applicable law.

4.2 Shipper has twelve (12) months from the Execution Date to notify the Company to begin construction of the additional Points of Delivery as described in Exhibit A at the rates and terms set forth herein. If the Shipper notifies the Company after twelve (12) months, the Company may request the opportunity to negotiate a modification of the rates or terms of this Agreement to be effective for the remainder of the Current Term, and the parties shall negotiate such modification in good faith. Any such new rate will be implemented, and Exhibit A updated accordingly, on the In-Service Date of the additional Points of Delivery. Notwithstanding the above, and regardless of whether notification occurs within twelve (12) months, if there is a material impact on project costs related to materials,

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ROW, or labor after the notification and before the commencement of permitting, such as a material change in the construction fee or the cost of steel, the Company may also request the opportunity to negotiate a modification of the rates or terms of this Agreement to be effective for the remainder of the Current Term, and the parties shall negotiate such modification in good faith.

4.3 No less than 120 days before the expiration of the Current Term, either party may request the opportunity to negotiate a modification of the rates or terms of this Agreement to be effective with the subsequent Renewed Term. Neither Party is obligated to, but may, agree to any mutually acceptable modification to the Agreement for the subsequent Renewed Term. In the event the parties reach agreement for a modification to the Agreement for the subsequent Renewed Term, such agreed upon modification ("Agreement Modification") shall be set forth in writing and signed by both parties prior to the expiration of the Current Term.

4.4 Any portion of this Agreement necessary to resolve monthly balancing and operational controls under this Agreement, pursuant to the Rules and Regulations of Company's Tariff, shall survive the expiration or termination of this Agreement until such time as such monthly balancing and operational controls have been resolved.

4.5 In the event Shipper fails to pay for the service provided under this Agreement or otherwise fails to meet Company's standards for creditworthiness set forth in Section C of the Rules and Regulations of the Company's Tariff or otherwise violates the Rules and Regulations of Company's Tariff, or defaults on this Agreement, Company shall have the right to terminate this Agreement pursuant to the conditions set forth in Section D of the Rules and Regulations of Company's Tariff.

ARTICLE V
COMPANY'S TARIFF PROVISIONS

5.1 Company's Tariff approved by the Commission, including any amendments thereto approved by the Commission during the term of this Agreement ("Company's Tariff"), is hereby incorporated into this Agreement and made a part hereof for all purposes. In the event of any conflict between Company's Tariff and the specific provisions of this Agreement, the latter shall prevail, in the absence of a Commission Order to the contrary.

ARTICLE VI
REGULATORY AUTHORIZATIONS AND APPROVALS

6.1 Company's obligation to provide service is conditioned upon receipt and acceptance of any necessary regulatory authorization to provide Firm Transportation Service for Shipper in accordance with the Rules and Regulations of Company's Tariff.

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ARTICLE VII
DELIVERY POINT(S) AND POINT(S) OF DELIVERY

7.1 The Delivery Point(s) for all Gas delivered for the account of Shipper into Company's pipeline system under this Agreement, shall be as set forth on Exhibit A attached hereto.

7.2 The Point(s) of Delivery shall be as set forth on Exhibit A attached hereto.

7.3 Shipper shall cause Transporter to deliver to Company at the Delivery Point(s) on the Transporter's system, the quantities of Gas to be transported by Company hereunder. Company shall have no obligation for transportation of Shipper's Gas prior to receipt of such Gas from the Transporter at the Delivery Point(s), nor shall Company have any obligation to obtain capacity on Transporter for Shipper or on Shipper's behalf. The Company shall deliver such quantities of Gas received from the Transporter at the Delivery Point(s) for Shipper's account to Company's Point(s) of Delivery identified on Exhibit A.

ARTICLE VIII
SCHEDULING AND BALANCING

8.1 Shipper shall be responsible for nominating quantities of Gas to be delivered by the Transporter to the Delivery Point(s) and delivered by Company to the Point(s) of Delivery. Shipper shall promptly provide notice to Company of all such nominations. Imbalances between quantities (i) scheduled at the Delivery Point(s) and the Point(s) of Delivery, and (ii) actually delivered by the Transporter and/or Company hereunder, shall be resolved in accordance with the applicable provisions of Company's Tariff, as such provisions, and any amendments to such provisions, are approved by the Commission.

8.2 The parties hereto recognize the desirability of maintaining a uniform rate of flow of Gas to Shipper's facilities over each Gas Day throughout each Gas Month. Therefore, Company agrees to receive from the Transporter for Shipper's account at the Delivery Point(s) and deliver to the Point(s) of Delivery up to the MDTQ as described in Exhibit A, subject to any restrictions imposed by the Transporter and to the provisions of Article IX of this Agreement, and Shipper agrees to use reasonable efforts to regulate its deliveries from Company's pipeline system at a daily rate of flow not to exceed the applicable MDTQ for the Gas Month in question, subject to any additional restrictions imposed by the Transporter or by Company pursuant to Company's Tariff.

ARTICLE IX
MISCELLANEOUS PROVISIONS

9.1 Notices and Other Communications. Any notice, request, demand, statement, or

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payment provided for in this Agreement, unless otherwise specified, shall be sent to the parties hereto at the following addresses:

Company: Peninsula Pipeline Company, Inc.
500 Energy Lane, Suite 200
Dover, Delaware 19901
Attention: Contracts

Shipper: Florida Public Utilities Company
911 South 8th Street Fernandina Beach,
Florida 32034
Attention: Contracts

9.2 Headings. All article headings, section headings and subheadings in this Agreement are inserted only for the convenience of the parties in identification of the provisions hereof and shall not affect any construction or interpretation of this Agreement.

9.3 Entire Agreement. This Agreement, including the Exhibit attached hereto, sets forth the full and complete understanding of the parties as of the Execution Date, and it supersedes any and all prior negotiations, agreements and understandings with respect to the subject matter hereof. No party shall be bound by any other obligations, conditions, or representations with respect to the subject matter of this Agreement.

9.4 Amendments. Neither this Agreement nor any of the terms hereof may be terminated, amended, supplemented, waived or modified except by an instrument in writing signed by the party against which enforcement of the termination, amendment, supplement, waiver or modification shall be sought. A change in (a) the place to which notices pursuant to this Agreement must be sent or (b) the individual designated as the Contact Person pursuant to Section 9.1 shall not be deemed nor require an amendment of this Agreement provided such change is communicated in accordance with Section 9.1 of this Agreement. Further, the parties expressly acknowledge that the limitations on amendments to this Agreement set forth in this section shall not apply to or otherwise limit the effectiveness of amendments that are or may be necessary to comply with the requirements of, or are otherwise approved by, the Commission or its successor agency or authority.

Severability. If any provision of this Agreement becomes or is declared by a court of competent jurisdiction to be illegal, unenforceable or void, this Agreement shall continue in full force and effect without said provision; provided, however, that if such severability materially changes the economic benefits of this Agreement to either party, the parties shall negotiate in good faith an equitable adjustment in the provisions of this Agreement.

9.5 Waiver. No waiver of any of the provisions of this Agreement shall be deemed to

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be, nor shall it constitute, a waiver of any other provision whether similar or not. No single waiver shall constitute a continuing waiver, unless otherwise specifically identified as such in writing. No waiver shall be binding unless executed in writing by the party making the waiver.

9.6 Attorneys' Fees and Costs. In the event of any litigation between the parties arising out of or relating to this Agreement, the prevailing party shall be entitled to recover all costs incurred and reasonable attorneys' fees, including attorneys' fees in all investigations, trials, bankruptcies, and appeals.

9.7 Independent Parties. Company and Shipper shall perform hereunder as independent parties. Neither Company nor Shipper is in any way or for any purpose, by virtue of this Agreement or otherwise, a partner, joint venturer, agent, employer or employee of the other. Nothing in this Agreement shall be for the benefit of any third person for any purpose, including, without limitation, the establishing of any type of duty, standard of care or liability with respect to any third person.

9.8 Assignment and Transfer. No assignment of this Agreement by either party may be made without the prior written approval of the other party (which approval shall not be unreasonably withheld) and unless the assigning or transferring party's assignee or transferee shall expressly assume, in writing, the duties and obligations under this Agreement of the assigning or transferring party. Upon such assignment or transfer, as well as assumption of the duties and obligations, the assigning or transferring party shall furnish or cause to be furnished to the other party a true and correct copy of such assignment or transfer and the assumption of duties and obligations.

9.9 Governmental Authorizations; Compliance with Law. This Agreement shall be subject to all valid applicable state, local and federal laws, orders, directives, rules and regulations of any governmental body, agency or official having jurisdiction over this Agreement and the transportation of Gas hereunder. Company and Shipper shall comply at all times with all applicable federal, state, municipal, and other laws, ordinances and regulations. Company and/or Shipper will furnish any information or execute any documents required by any duly constituted federal or state regulatory authority in connection with the performance of this Agreement. Each party shall proceed with diligence to file any necessary applications with any governmental authorities for any authorizations necessary to carry out its obligations under this Agreement. In the event this Agreement or any provisions herein shall be found contrary to or in conflict with any applicable law, order, directive, rule or regulation, the latter shall be deemed to control, but nothing in this Agreement shall prevent either party from contesting the validity of any such law, order, directive, rule, or regulation, nor shall anything in this Agreement be construed to require either party to waive its respective rights to assert the lack of jurisdiction of any governmental agency other than the Commission, over this Agreement or any part thereof. In the event of such contestation, and unless otherwise prohibited from doing so under this Section 9.10, Company shall continue to transport and Shipper shall continue to take Gas pursuant to the terms of this Agreement. In the event any law, order, directive, rule, or regulation shall prevent either party

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from performing hereunder, then neither party shall have any obligation to the other during the period that performance under the Agreement is precluded. If, however, any Governmental Authority's modification to this Agreement or any other order issued, action taken, interpretation rendered, or rule implemented, will have a material adverse effect on the rights and obligations of the parties, including, but not limited to, the relative economic position of, and risks to, the parties as reflected in this Agreement, then, subject to the provisions of Sections 3.3 and 3.4 of this Agreement, the parties shall use reasonable efforts to agree upon replacement terms that are consistent with the relevant order or directive, and that maintain the relative economic position of, and risks to, the parties as reflected in this Agreement as of the Execution Date. As used herein, "Governmental Authority" shall mean any United States federal, state, local, municipal or other government; any governmental, regulatory or administrative agency, court, commission or other authority lawfully exercising or entitled to exercise any administrative, executive, judicial, legislative, police, regulatory or taxing authority or power; and any court or governmental tribunal.

(i) If any Governmental Authority asserting jurisdiction over the pipeline facility contemplated in this Agreement, issues an order, ruling, decision or regulation not covered by Section 3.3 or 3.4 of this Agreement (including denial of necessary permits or amendments to existing permits) related to the operation, maintenance, location, or safety and integrity compliance, including any new or revised enforceable regulatory classification of the pipeline facility, as applicable, which is not reasonably foreseeable as of the Execution Date and which results in a materially adverse effect on either party's rights and benefits under this Agreement, each party shall use commercially reasonable efforts and shall cooperate with the other party to pursue all necessary permits, approvals and authorizations, if any, of such applicable Governmental Authority, and to amend the terms and conditions of this Agreement, in each case as may be reasonably required in order that provision of firm transportation service under this Agreement shall continue; provided that neither party shall be required to take any action pursuant to this Section which is reasonably likely to have a materially adverse effect on such party's rights and benefits under this Agreement.

(ii) If the Parties are unable or unwilling to reach agreement pursuant to this Section 9.10, Company shall have the right to terminate this Agreement, without any further obligations to Shipper, upon one hundred twenty (120) days' prior written notice to Shipper.

9.10 Applicable Law and Venue. This Agreement and any dispute arising hereunder shall be governed by and interpreted in accordance with the laws of the State of Florida. The venue for any action, at law or in equity, commenced by either party against the other and arising out of or in connection with this Agreement shall be in a court of the State of Florida having jurisdiction.

9.11 Counterparts. This Agreement may be executed in counterparts, all of which taken together shall constitute one and the same instrument and each of which shall be deemed an

PENINSULA PIPELINE COMPANY, INC.
FIRM TRANSPORTATION SERVICE

original instrument as against any party who has signed it.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their duly authorized officers or representatives.

COMPANY
Peninsula Pipeline Company, Inc.

By: Marissa Stipa

Marissa Stipa

Title: Director

Date: 12/11/2023

SHIPPER
Florida Public Utilities Company

By: Bill Hancock

Bill Hancock

Title: Assistant Vice President

Date: 12/11/2023

PENINSULA PIPELINE COMPANY, INC.
FIRM TRANSPORTATION SERVICE

EXHIBIT A TO
FIRM TRANSPORTATION SERVICE AGREEMENT
BETWEEN
PENINSULA PIPELINE COMPANY, INC. AND
FLORIDA PUBLIC UTILITIES COMPANY

DATED

December 11, 2023

Phase I Construction

Description of Transporter Delivery Point(s)

1. At or near Boynton Beach Boulevard and Florida's Turnpike

██████████

Description of Point(s) of Delivery

1. At or near Boynton Beach Boulevard and Platina Avenue

██████████

Phase I Total Monthly Reservation Charge

██████████

Phase II Construction

Description of Transporter Delivery Point(s)

1. At or near on Boynton Beach Boulevard and Platina Avenue

Description of Point(s) of Delivery

1. At or near Boynton Beach Boulevard and Old Boynton Road

Phase II Total Monthly Reservation Charge

██████████

Total MDTQ (Dekatherms): ██████████/Day
MHTP: 4.17%

██████████

Total Monthly Reservation Charge: ██████████

This charge is subject to adjustment pursuant to the terms of this Agreement.

Unauthorized Use Rate (In addition to Monthly Reservation Charge): ██████/Each Day of
Unauthorized Use

ATTACHMENT B

Transportation Service Agreement – New Smyrna Beach

AMENDMENT No. 1 TO
FIRM TRANSPORTATION SERVICE AGREEMENT

This First Amendment to Firm Transportation Service Agreement (“Amendment No. 1”) is made and entered into this 11th day of December, 2023, by and between Florida Public Utilities Company, a corporation of the state of Florida (herein called “Company” or “FPU”) (herein called “Shipper”) and Peninsula Pipeline Company, Inc., a corporation of the State of Delaware (herein called “Company” and jointly with Shipper called “Parties”) to amend certain provisions of the Firm Transportation Service Agreement dated August 25, 2017 between Company and Shipper.

WITNESSETH

WHEREAS, Company and Shipper are parties to that certain Firm Transportation Service Agreement entered into on August 25, 2017, and approved by the Florida Public Service Commission (“FPSC”) in Docket No. 20170193-GU (the “Agreement”), pursuant to which Company provides Shipper with firm transportation service in Volusia County, Florida; and

WHEREAS, the Parties desire to amend the Agreement to add Monthly Reservation Charges for four new Points of Delivery to be constructed by Company (“Project”), to extend the term of the Agreement, and to make edits to the Agreement consistent with these changes;

NOW THEREFORE, in consideration of the premises and of the mutual covenants and agreements herein contained, the sufficiency of which is hereby acknowledged, Company and Shipper do covenant and agree as follows:

1. Capitalized terms not otherwise defined herein shall have the meanings given to such terms in the Agreement.

“In-Service Date” means the date that Company has commenced commercial operations of the Project, that construction has been completed, and that the Project has been inspected and tested as required by applicable law.

2. Article III of the Agreement is hereby amended by deleting Section 3.3 in its entirety and replacing it with the following:

If, at any time throughout the term of this Agreement, the Company is required by any Governmental Authority asserting jurisdiction over this Agreement and the transportation of Gas hereunder, to incur additional tax charges (including, without limitation, income taxes and property taxes) with regard to the service provided by Company under this Agreement, then Shipper’s Monthly Reservation Charge shall be adjusted and Exhibit A updated accordingly, and the new Monthly Reservation Charge shall be implemented immediately upon the effective date of such action. If Shipper does not agree to the adjusted Monthly Reservation Charge, Company

AMENDMENT No. 1 TO
FIRM TRANSPORTATION SERVICE AGREEMENT

shall no longer be required to continue to provide the service contemplated in this Agreement should an action of a Governmental Authority result in a situation where Company otherwise would be required to provide transportation service at rates that are not just and reasonable, and in such event the Company shall have the right to terminate this Agreement pursuant to the conditions set forth in Section D of the Rules and Regulations of Company's Tariff.

3. Article III of the Agreement is hereby further amended by adding a new Section 3.4 as follows:

If, at any time throughout the term of this Agreement, the Company is required by any Governmental Authority asserting jurisdiction over this Agreement and the transportation of Gas hereunder, to incur additional capital expenditures with regard to the service provided by Company under this Agreement, other than any capital expenditures required to provide transportation services to any other customer on the pipeline system serving Shipper's facility, but including, without limitation, mandated relocations of Company's pipeline facilities serving Shipper's facility and costs to comply with any changes in pipeline safety regulations, then Shipper's Monthly Reservation Charge shall be adjusted and Exhibit A updated accordingly, and the new Monthly Reservation Charge shall be implemented immediately upon the effective date of such action. If Shipper does not agree to the adjusted Monthly Reservation Charge, Company shall no longer be required to continue to provide the service contemplated in this Agreement should an action of a Governmental Authority result in a situation where Company otherwise would be required to provide transportation service at rates that are not just and reasonable, and in such event the Company shall have the right to terminate this Agreement pursuant to the conditions set forth in Section D of the Rules and Regulations of Company's Tariff.

4. Article IV of the Agreement is hereby amended by deleting Section 4.1 in its entirety and replacing it with the following:

Subject to all other provisions, conditions, and limitations hereof, this Agreement shall be effective upon its date of execution by both parties (the "Execution Date") and shall continue in full force for an initial period of twenty (20) years from the In-Service Date (the "Initial Term"). Thereafter, the Agreement shall be extended on a year-to-year basis (each a "Renewed Term" and, all Renewed Terms together with the Initial Term, the "Current Term"), unless either party gives written notice of termination to the other party, not less than (90) days prior to the expiration of the Current Term. This Agreement may only be terminated earlier in accordance with the provisions of this Agreement and the parties' respective rights under applicable law.

AMENDMENT No. 1 TO
FIRM TRANSPORTATION SERVICE AGREEMENT

5. Exhibit A to the Agreement is hereby superseded and replaced by First Revised Exhibit A attached to this Amendment No. 1.

6. The Parties agree that the rates, terms and conditions of this Amendment No. 1 may be placed into effect upon execution. The Parties further agree that, in the event that: (a) the FPSC declines to approve Amendment No. 1 to the Agreement; or (b) the FPSC fails to address Amendment No. 1 to the Agreement within twelve (12) months of execution; or (c) any person whose substantial interests are affected files a timely protest of the FPSC's order approving Amendment No. 1 to the Agreement, the rates, terms and conditions shall revert to the original Agreement as approved by FPSC Order No. No. PSC-2017-0498-PAA-GU.

7. Except as modified by this Amendment No. 1, the Agreement shall remain unchanged and continue in full force and effect.

IN WITNESS WHEREOF, the parties hereto have caused this Amendment No. 1 to be executed by their duly authorized officers or representatives effective as of the date first written above.

COMPANY:
Peninsula Pipeline Company, Inc.

SHIPPER:
Florida Public Utilities Company

By: Marissa Stipa
Marissa Stipa

By: Bill Hancock
Bill Hancock

Title: Director

Title: Assistant Vice President

Date: 12/11/2023

Date: 12/11/2023

AMENDMENT No. 1 TO
FIRM TRANSPORTATION SERVICE AGREEMENT

FIRST REVISED EXHIBIT A

TO

FIRM TRANSPORTATION SERVICE AGREEMENT

BETWEEN

PENINSULA PIPELINE COMPANY, INC.

AND

FLORIDA PUBLIC UTILITIES COMPANY

Description of Transporter Delivery Point(s)

1. Interconnection with existing PPC pipeline at Pioneer Trail Road in Volusia County

Description of Point(s) of Delivery¹

1. Existing Pressure Regulator Station at the intersection of Turnbull Bay Road and Creek Shore Trail in Volusia County, FL
2. Existing Pressure Regulator Station at the intersection of Industrial Park Avenue and Turnbull Street in Volusia County, FL
3. New Point of Delivery at or near Glencoe Rd and Paige Avenue
4. New Point of Delivery at or near Bianca Drive and State Road A1A
5. New Point of Delivery at or near Whaler Drive and State Road ALA
6. New Point of Delivery at or near Mango Park

MHTP:6%

Total MDTQ (Dekatherms): [REDACTED]

Monthly Reservation Charge: [REDACTED]

This charge is subject to adjustment pursuant to the terms of this Agreement.

Unauthorized Use Rate (In addition to Monthly Reservation Charge): [REDACTED] Each Day of Unauthorized Use

¹ The Parties to this Agreement acknowledge and recognize that the facilities to be installed represent an extension of existing facilities currently used by the Company to provide service to Shipper in Volusia County. The pricing hereunder is inclusive of the original Exhibit A charges and does not otherwise duplicate charges for service from the existing interconnection "Delivery Point" (renamed "Point of Delivery" herein) with the existing New Smyrna Pipeline owned and operated by Peninsula Pipeline Company, Inc. approved as part of the original Agreement in Docket No. Docket No. 20170193-GU.

ATTACHMENT C

Project Maps



