

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for approval of transportation
service agreement with Florida Public Utilities
Company, by Peninsula Pipeline Company,
Inc.

DOCKET NO. 120313-GU
ORDER NO. PSC-13-0378--PAA-GU
ISSUED: August 13, 2013

The following Commissioners participated in the disposition of this matter:

RONALD A. BRISÉ, Chairman
LISA POLAK EDGAR
ART GRAHAM
EDUARDO E. BALBIS
JULIE I. BROWN

NOTICE OF PROPOSED AGENCY ACTION
ORDER APPROVING AMENDED AGREEMENT BETWEEN PENINSULA PIPELINE
COMPANY, INC.'S AND FLORIDA PUBLIC UTILITIES COMPANY

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.

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, our 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

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 our express 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.

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 our decision on the Agreement while the FERC ruling is also pending. We have jurisdiction over this matter pursuant to Sections 366.03, 366.04, 366.05, 366.06, and 368.105, Florida Statutes.

Decision

As noted in the case background, FPUC and Peninsula are corporate affiliates; therefore, the Agreement must be approved by us prior to implementation pursuant to Order No. PSC-07-1012-TRF-GP and Section 368.105, F.S. In order to evaluate the Agreement, we obtained additional information from the parties via an informal meeting with our staff 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.

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., we 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), F. S., 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.

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.

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. 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., we find that contracting for service with Peninsula is the most reasonable option for FPUC. First, if FPUC had purchased the lateral or constructed a new lateral it would have incurred significant capital costs.

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.

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., which 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.

It should be noted that we have previously approved two transportation service agreements for Peninsula in Order No. PSC-12-0230-PAA-GU.³ Therefore, after reviewing the options available to FPUC, including the cost analyses provided to staff by FPUC, and based on the representation in those documents, we find that the Agreement is cost effective, reasonable, meets the requirements of Section 368.105, F.S., and benefits FPUC's customers. Thus, we

³ 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

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 shall become effective after Peninsula notifies our staff, in writing, that FGT has received FERC approval.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that the amended Agreement between Peninsula Pipeline Company, Inc. and Florida Public Utilities Company as filed on February 7, 2013, is approved contingent upon the Federal Energy Regulatory Commission approval of Florida Gas Transmission Company's request to transfer gas to Peninsula's system. It is further

ORDERED that the amended Agreement shall become effective after Peninsula notifies our staff, in writing, that FGT has received FERC approval. 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 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 13th day of August, 2013.



ANN COLE
Commission Clerk
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399
(850) 413-6770
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.

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 September 3, 2013.

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.