

ORIGINAL

050835-GU

RECEIVED-PPSC

05 OCT 24 AM 11:21

MEMORANDUM

COMMISSION  
CLERK

TO: PSC Clerk

FROM: Wayne L. Schiefelbein *WLS*  
Of Counsel

RE: Chesapeake Utilities Corporation  
Our File No.: 37019.17

DATE: October 24, 2005

---

On behalf of Chesapeake Utilities Corporation, enclosed for filing are an original and 15 copies of a Petition of the Florida Division of Chesapeake Utilities Corporation 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 with Polk Power Partners, L.P. I have also included one copy to be date stamped and returned to me.

**PLEASE OPEN A NEW DOCKET TO PROCESS THE PETITION.**

If you have any questions, please feel free to call.

WLS/dcr  
Enclosures  
G:\chesapeake\Clerk 2 memo.wpd

RECEIVED & FILED

*Oh*

FPSC-BUREAU OF RECORDS

**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

In re: Petition of the Florida Division of  
Chesapeake Utilities Corporation 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 With Polk Power Partners, L.P.

060835-6U

**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  
WITH POLK POWER PARTNERS, L.P.**

The Florida Division of Chesapeake Utilities Corporation (the Company), by and through its undersigned counsel, petitions 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 with Polk Power Partners, L.P., and in support hereof states as follows.

1. The name and address of the petitioner are:

Chesapeake Utilities Corporation  
Florida Division  
P.O. Box 960  
Winter Haven, FL 33882

2. The name, address, and telephone and fax numbers of the person authorized to receive notices and communications with respect to this petition are:

Wayne L. Schiefelbein  
Of Counsel  
Rose, Sundstrom and Bentley, LLP  
2548 Blairstone Pines Drive  
Tallahassee, FL 32301  
(850) 877-6555 (telephone)  
(850) 656-4029 (fax)

Attorneys for the Florida Division of  
Chesapeake Utilities Corporation

DOCUMENT NUMBER-DATE

10293 OCT 24 18

FPSC-COMMISSION CLERK

3. The Company is a natural gas distribution utility subject to the regulatory jurisdiction of this Commission as prescribed in Chapter 366, Florida Statutes. Its substantial interests will be affected by the Commission's disposition of this petition in that such disposition will determine whether the Company will be permitted to amend its current agreements and enter into new agreements so that Company will be able to continue to provide gas transportation on terms and conditions agreeable to the Company and Polk Power Partners, L.P.
4. On April 14, 1992, the Commission issued Order No. PSC-92-0201-FOF-GU approving the Company's request to establish a Large Volume Transportation Service (LVTS) rate schedule in its tariff. In the same Order, the Commission also approved a LVTS gas transportation agreement between the Company and Mulberry Cogeneration, Inc. to provide transportation service to a 72 MW cogeneration facility located in Polk County, Florida. In February 1992, Mulberry Cogeneration, Inc. sold its interest in the facility to Polk Power Partners, L. P. (Polk Power). On August 11, 1993, the Commission issued Order No. PSC-93-1178-FOF-GU approving the Company's request for a second transportation agreement with Polk Power to provide an increased volume of transportation service. On February 18, 1994, the Company executed a new gas transportation agreement with Polk Power that essentially consolidated the terms and conditions of the two previously executed agreements described above. On May 10, 1994, the Commission issued Order No. PSC-94-0541-FOF-GU approving the Company's request to terminate the two previous agreements and implement the new gas transportation agreement with Polk Power.
5. The Company's February 18, 1994 gas transportation agreement with Polk Power provides that the rate for the first 5,640 Dt of gas transported each day is billed based on a calendar year rate schedule established in the agreement. Any additional Dts transported above the 5,640 Dt threshold are billed at \$0.025 per Dt. The rate schedule in the agreement for the first 5,640 Dts includes an annual 7.5% rate escalator. The initial transportation rate in effect for calendar year 1994 was \$0.210 per decatherm (Dt). The transportation rate in effect for 2005 has increased to \$0.465 per Dt.
6. The annual escalation of the transportation rate has reached the point where the economic incentive for Polk Power to continue service through the Company's distribution system is marginal. The Company provides 5,640 Dt per day of Florida Gas Transmission Company (FGT) rate schedule FTS-1 interstate pipeline capacity to Polk Power Partners under a separate agreement. The current FGT FERC authorized recourse reservation rate for FTS-1 capacity is \$0.3855 per Dt. The addition of the Company's 2005 transportation rate of \$0.465 per Dt results in a total transportation rate to Polk Power of \$0.8315 per Dt.

7. Continued escalation of the transportation rate could result in Polk Power Partners L.P. bypassing the Company's distribution system and requesting direct connect transportation service from FGT. It is unlikely that Polk Power could acquire 5,640 Dt of the FTS-1 capacity from FGT or other sources. However, there are sufficient quantities of FGT FTS-2 capacity available in the market to support a Polk Power by-pass. The current FGT FERC authorized recourse reservation rate for FTS-2 capacity is \$0.7690 per Dt. The FTS-2 rate is less than the current combined rate for FGT FTS-1 and the Company's transportation rate of \$0.8315 per Dt, as described above.
8. In 1993, Polk Power acquired a direct connection to FGT as part of FGT's Phase III expansion project. The majority of the gas required to operate the cogeneration facility already bypasses the Company's distribution system. The capital improvements required (if any) to increase the volume capabilities at the existing FGT delivery point could be recovered quickly by Polk Power when compared to its future overall cost under the rate escalator incorporated in the Company's existing transportation agreement. In the Company's view, the rate escalator clause in the current transportation agreement significantly increases the probability that Polk Power would bypass the Company's distribution system.
9. Last year, there was a change in the entities that comprise the partnership that own Polk Power Partners, L.P. The new partners contacted the Company about renegotiating the existing transportation agreement, given the favorable economics of their alternatives. The Company and Polk Power have jointly worked to restructure the terms and conditions under which the Company provides transportation services to the cogeneration facility. The restructured transportation arrangement requires an amendment to the existing Commission approved gas transportation Special Contract and the execution of several new agreements. The amendment and new operating agreements have been executed between the parties with an effective date of January 1, 2005, subject to Commission approval.
10. The intent of the various agreements described in this Petition is for the Company to retain one of its largest customers, while ensuring that the rates charged are competitive with the customer's other gas delivery options. In 2004, the Company received \$571,848 in margin revenue from Polk Power. In the event Polk Power elected to bypass the Company's distribution system, the Company would likely need to seek the recovery of the lost margins from its remaining customers.
11. This Petition seeks approval of several agreements between the Company and Polk Power. These agreements collectively achieve the proposed restructuring of the Company's transportation service arrangements to the cogeneration facility. The agreements are as follows and are attached as exhibits:

- a. Amendment No. 2 to Gas Transportation Agreement (Exhibit A).
  - b. Master Gas Transportation Service Termination Agreement (Exhibit B).
  - c. Delivery Point Lease Agreement (Exhibit C).
  - d. Letter Agreement: CFG Transportation Aggregation Service (Exhibit D).
12. The Amendment No. 2 to Gas Transportation Agreement (the "Amendment") would discontinue the rate escalator clause discussed above. In its place the parties would establish a fixed fee Transportation Service Reservation Charge of \$54,896 per month (\$658,752 annually) over the remaining term of the transportation agreement (December 31, 2015). The Amendment provides for an eighteen (18) month notification from Polk Power to the Company if Polk Power exercises its termination rights under the agreement. The Amendment also clarifies certain tax obligations of the parties and implements other minor administrative adjustments. An interim effective date prior to Commission approval is included in the Amendment along with a mechanism for the disposition of the amended terms and conditions of the agreement in the event the Commission declines or fails to issue a final order approving the amended rates and conditions. The Amendment modifies the Gas Transportation Agreement approved by the Commission (Order No. PSC-94-0541-FOF-GU) as a Special Contract on May 10, 1994.
13. The Master Gas Transportation Service Termination Agreement would provide the rights by which a party could terminate any or all of the referenced agreements in the event the other party exercises their termination rights under one or more of the agreements, or a regulatory authority orders termination of one or more of the agreements. The Master Gas Transportation Service Termination Agreement acknowledges that the various agreements included in this Petition are interconnected. The operational and economic benefits that inure to each party from the various agreements exist only to the extent that each agreement remains in effect. In the absence of the Master Gas Transportation Service Termination Agreement one party could gain an unintended economic or operational advantage over the remaining party.
14. The Delivery Point Lease Agreement is a key element in the transportation service relationship between the Company and Polk Power. The partnership that operates the Polk Power cogeneration facility also operates a second facility, Orange Cogeneration, in Polk County. As noted above, the Polk Power facility receives gas service through a direct interconnect with FGT and through the Company's distribution system. All of the gas delivered to the Orange Cogeneration facility is provided through the Company's distribution system. The Delivery Point Lease Agreement would enable Polk Power to designate the Company as Delivery Point Operator (DPO) for the delivery point that directly interconnects the Polk Power cogeneration plant to FGT. The Company is already DPO for the interconnects with FGT and the Gulfstream Natural Gas System pipeline that deliver gas to the

Company's distribution system for redelivery to the cogeneration facilities. By designating the Company as DPO for the direct connect delivery point, the cogeneration facilities can pool all of their gas deliveries as provided in Section 17.2 (Transportation Aggregation) of the General Terms and Conditions of the Company's tariff. Operating as aggregated customer pool under the Company's tariff could provide significant economic and operational benefits to the cogeneration facilities. The ability to extract such benefits is a substantial reason Polk Power is interested in continuing its transportation relationship with the Company. For example, the monthly process to resolve the imbalance between gas quantities scheduled for delivery at the first of the month vs. actual consumption at the facilities would be improved. The pool would provide the opportunity to balance a long position at one cogeneration facility with a short position at the other facility. In addition, the ability to manage operating orders (such as Alert Days and Operational Flow Orders) would also be improved by forming the aggregated customer pool. Given the potential benefits to Polk Power resulting from the lease agreement, the Company would receive an initial payment of \$20,000 and an Operation and Maintenance Fee of \$2,500 per month.

15. There are no circumstances that the Company can envision that would result in a cost increase to any of the Company's other ratepayers as a result of implementation of the agreements referenced in this Petition. On the contrary, establishing the Polk Power customer pool may help mitigate imbalance and operating order charges that would be assessed to other customer pools or shippers. Designating the Company as DPO for the Polk Power delivery point with FGT will add the Polk Power delivery point to the Company's 22 existing FGT delivery points. FGT resolves all imbalances and operating order issues with the DPO. The Company, as DPO, in turn directly assigns or allocates any charges or credits from the pipeline to the various shippers delivering gas to their delivery points. The Company has both mechanical and electronic measurement devices that record hourly gas deliveries to the Polk Power and Orange Cogeneration facilities through the Company's distribution system. The DPO lease agreement would provide similar measurement capabilities through the FGT direct interconnect delivery point to Polk Power. Given these measurement capabilities, imbalance resolution and operating order charges or credits related to the Polk Power customer pool can be directly assigned without affecting any other customers. The additional gas quantities delivered through the Polk Power delivery point leased by the Company significantly increases the Company's total scheduled gas delivery quantities. The increased scheduled volume helps all other shippers on the Company's system to remain within overall system tolerance levels during pipeline operating orders, thus avoiding penalties.
16. Polk Power Partners, L.P. would be the Pool Manager for both cogeneration facilities. Polk Power has executed a standard Aggregated Transportation

Service (TAS) Agreement with the Company as provided by tariff. The Company and Polk Power have executed a Letter Agreement: CFG Transportation Aggregation Service that clarifies the application of certain provisions of the TAS Agreement. The principal issues addressed in the letter agreement relate to capacity relinquishment and non-performance penalties. The Polk Power customer pool is not receiving interstate pipeline capacity from the Company under the Transportation Aggregation program. Therefore, the standard TAS Agreement provisions (Article II, III and IV) that govern capacity relinquishment are not applicable to the Polk Power pool. The TAS Agreement also establishes certain penalties assessed to Pool Managers who fail to deliver gas for their customers. These penalties were established to ensure that small commercial customers served by a Pool Manager would receive reliable service. In view of the fact that the only customers served in the Polk Power customer pool are affiliated with Polk Power, such protection is unwarranted. The letter agreement deletes these non-applicable sections of the TAS Agreement and provides other minor administrative clarifications.

17. The annual transportation revenues derived from the above referenced agreements would enable the Company to more than recover the fully allocated cost of serving Polk Power. The Company has completed a Cost of Service Study, appended hereto as Exhibit E. The study includes annual revenues from the agreements totaling \$688,752 (\$658,752 from Amendment No. 2 to Gas Transportation Agreement (Exhibit A) and \$30,000 from Delivery Point Lease Agreement (Exhibit C). Estimated annual operating costs from the Cost of Service Study total \$180,453. The Agreements will ensure that the Company's operating costs will be fully recovered and provide a reasonable return on its net investment. The Agreements generate annual revenues in excess of the annual cost to serve, thereby providing benefits to the general body of ratepayers.
18. The Company is entitled to reasonable compensation for the services rendered under the agreements referenced in this Petition. The Commission has the authority to approve the rates charged by the Company to provide such compensation pursuant to Chapter 366, Florida Statutes.
19. The Company requests that Commission approval of the Special Contract amendment and those new agreements referenced in this Petition be made effective as of the effective date included in each respective amendment and/or agreement, and that in the event a protest to the Order granting the instant petition is timely filed, that the authority to collect the rates proposed therein remain in effect, subject to refund, pending resolution of the protest.
20. The Company is aware of no disputed issues of material fact.

WHEREFORE, the Florida Division of Chesapeake Utilities Corporation requests that the Commission approve the following agreements with Polk Power Partners, L.P.: a) Amendment No. 2 to Gas Transportation Agreement (Special Contract); b) Master Gas Transportation Service Termination Agreement; c) Delivery Point Lease Agreement; d) and Letter Agreement: CFG Transportation Aggregation Service.

Dated: October 24, 2005

Respectfully submitted,

  
Wayne L. Schiefelbein

Of Counsel

Rose, Sundstrom and Bentley, LLP

2548 Blairstone Pines Drive

Tallahassee, FL 32301

(850) 877-6555 (telephone)

(850) 656-4029 (fax)

Attorneys for the Florida Division of  
Chesapeake Utilities Corporation



# **EXHIBIT A**

## AMENDMENT NO. 2 TO GAS TRANSPORTATION AGREEMENT

This AMENDMENT NO. 2 TO GAS TRANSPORTATION AGREEMENT ("Amendment") is made and entered into on the 24<sup>th</sup> day of August, 2005, to be effective January 1, 2005 (the "Effective Date") by and between Chesapeake Utilities Corporation, a Delaware corporation doing business in Florida as Central Florida Gas Company and hereinafter referred to as "Transporter", and Polk Power Partners, L.P., a Delaware limited partnership hereinafter referred to as "Shipper". Transporter and Shipper shall also be referred to from time to time herein as "Party" or, collectively, as "Parties."

### WITNESSETH:

WHEREAS, Transporter and Shipper are Parties to that certain Gas Transportation Agreement ("Agreement") dated February 18, 1994; and

WHEREAS, subject to the terms and conditions of this Amendment, the Parties desire to amend, cancel, or replace certain provisions of the Agreement, as provided herein.

NOW, THEREFORE, in consideration of the premises and mutual covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of which are acknowledged by the Parties, the Parties mutually agree as follows:

1. The first sentence of Section 1.1 of the Agreement is amended to read as follows:

"Shipper shall cause FGT to deliver to Transporter at the Bartow B delivery point on FGT's system, and/or such other delivery point on FGT's system interconnected to Transporter's gas distribution system as the Parties may agree (hereinafter referred to as a "Delivery Point"), the quantities of gas to be transported by Transporter hereunder."

2. Exhibit A of the Agreement is canceled as of the Effective Date of this Amendment.
3. Section 6.1 of the Agreement is deleted in its entirety, and the following shall be inserted in lieu thereof:

"For the period commencing January 1, 2005 and continuing thereafter for the remaining term of this Agreement, Shipper shall pay to Transporter a Transportation Service Reservation Charge of \$54,896 per month. Shipper shall pay this amount to Transporter on or before the first day of each month during

the remaining term of this Agreement whether or not Shipper causes FGT to deliver to Transporter at any Delivery Point any quantities of gas to be transported by Transporter hereunder. In the event that actual gas quantities received at Shipper's Cogeneration Facility as recorded on Transporter's measurement equipment located at such facility, such equipment not to include any measurement equipment associated with the ARC Delivery Point, exceed 4,512 dt per day on any given day, Shipper shall pay to Transporter an additional transportation charge of \$0.20 per dt for all quantities in excess of 4,512 dt per day up to 5,640 dt per day. In the event that actual gas quantities received at Shipper's Cogeneration Facility as recorded on Transporter's measurement equipment located at such facility, such equipment not to include any measurement equipment associated with the ARC Delivery Point, exceed 5,640 dt per day on any given day, Shipper shall pay to Transporter an additional transportation charge of \$0.025 per dt for all quantities in excess of 5,640. The rates established in this Agreement are subject to the continuing jurisdiction of the FPSC and may be amended from time to time subject to the approval of the FPSC.

4. Amendment No. 1 to the Agreement, dated September 14, 1994, is canceled as of the Effective Date of this Amendment.

5. Section 6.2 of the Agreement, as amended by Amendment No. 1, is deleted in its entirety and the following shall be inserted in lieu thereof:

"If during the term of this Agreement, the Federal Government, or any State, municipality or subdivision of such Government, shall increase any present tax or levy additional tax, relating to the service provided by Transporter under this Agreement (other than on Transporter's income), any such additional tax actually paid by Transporter shall be added to the then effective rate for the Monthly Transportation Reservation Charge. If during the term of this Agreement, the Federal Government, or any State, municipality or subdivision of such Government, shall decrease or eliminate any tax paid by Transporter relating to the service provided by Transporter under this Agreement, the reduction in such tax shall be subtracted from the then effective rate for the Monthly Transportation Reservation Charge."

6. The Parties agree that, on the Effective Date of this Amendment, Transporter's letter to Shipper dated January 28, 1999, reducing the base

transportation rate in the Agreement to eliminate Florida Gross Receipts Tax as a rate component and increasing the base transportation rate to reflect an increase in the Florida Public Service Commission's Regulatory Assessment Fee shall be canceled and replaced in its entirety by the rates established by this Amendment. The Parties further agree that nothing in this Amendment, or the replacement of the January 28, 1999 Transporter letter, shall be construed as limiting the ability of Transporter to increase or reduce rates to recover from Shipper Gross Receipts Tax, Regulatory Assessment Fees, or any other applicable tax or fee, that may be imposed or for which tax rates are adjusted by governmental authority, relating to the service provided by Transporter under this Agreement.

7. The Parties agree that, as provided in Section 6.1 of the Agreement, as amended herein, the negotiated rates included in this Amendment are subject to the continuing jurisdiction of the Florida Public Service Commission (FPSC) and must be submitted for approval. Transporter agrees to petition the FPSC for approval of the amended rates within thirty (30) days from the date of execution of this Amendment.
8. Section 7.1 of the Agreement is amended to add the following sentence: "Shipper may, at its sole option, terminate this Agreement with at least eighteen (18) months written notice to Transporter prior to the proposed termination date."
9. The Parties agree that the rates, terms and conditions established in this Amendment shall be placed into effect on the Effective Date on an interim basis until such time as the FPSC has issued a final order approving the amended rates, terms and conditions. The Parties agree that, in the event the FPSC (a) expressly declines to issue such a final order, or (b) fails to issue such a final order within twelve (12) months after execution of this Amendment, the provisions of this Amendment shall be deemed void ab initio, and the rates, terms and conditions shall revert to the original Agreement. Transporter shall calculate the cumulative revenue difference between the actual billed charges at the interim rates in this Amendment and the rates in the original Agreement for the gas quantities delivered during the period the interim rates were in effect, and collect or refund such amount from or to Shipper.
10. This Amendment may be executed in more than one counterpart, and each executed counterpart shall have the same force and effect as an original instrument.
11. In all other respects, the Agreement shall remain unchanged and in full force and effect.

IN WITNESS WHEREOF, the parties have duly executed this Amendment No. 2  
to Gas Transportation Agreement, effective as of the date first stated above.

Chesapeake Utilities Corporation

Polk Power Partners, L.P.

By:

Name:

Title:

Date: August 24, 2005


By: Polk Power GP, Inc., its General  
Partner

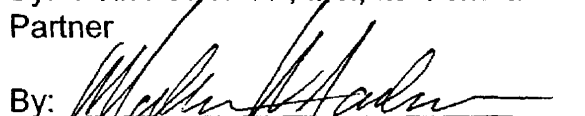
By:

Name:

Title:

Date: August 24, 2005

  
Name: JOHN R SEMBRATIUS  
Title: PRESIDENT

  
Name: Malcolm W. Jacobson  
Title: General Manager

## **EXHIBIT B**

**MASTER GAS TRANSPORTATION SERVICE  
TERMINATION AGREEMENT**

This MASTER GAS TRANSPORTATION SERVICE TERMINATION AGREEMENT ("Master Agreement") is made and entered into as of the 24<sup>th</sup> day of August, 2005, (the "Effective Date") by and between Chesapeake Utilities Corporation, a Delaware corporation doing business in Florida as Central Florida Gas Company and hereinafter referred to as "Transporter", and Polk Power Partners, L.P., a Delaware limited partnership hereinafter referred to as "Shipper". Transporter and Shipper shall also be referred to from time to time herein as "Party" or, collectively, as "Parties."

**WITNESSETH:**

WHEREAS, Transporter and Shipper are Parties to the following agreements: (1) Gas Transportation Agreement dated February 18, 1994, as amended, including by Amendment No. 2 to Gas Transportation Agreement, effective as of January 1, 2005 ("Gas Transportation Agreement"); (2) Capacity Relinquishment Agreement dated February 18, 1994, as amended, including by Amendment No. 1 to Capacity Relinquishment Agreement of even date herewith; (3) Delivery Point Lease Agreement effective January 1, 2005; and, (4) Transportation Aggregation Service (TAS) Pool Manager Agreement, effective as of January 1, 2005, as modified by the Letter Agreement: CFG Transportation Aggregation Service, dated August 24, 2005 and effective as of January 1, 2005 (such above referenced agreements collectively referred to from time to time herein as "Agreements"); and

WHEREAS, each of the Agreements include specific termination rights for each Party, and, further, each of the Agreements are subject to all of the rules, regulations and orders of any duly constituted federal or state regulatory authorities having jurisdiction hereof, which regulatory authority may, subsequent to the execution of the Agreements by the Parties, order the termination of the Agreements; and

WHEREAS, the Parties recognize and acknowledge that the operational and economic benefits which inure to each Party from the Agreements exist only to the extent each referenced agreement remains in force, and that the exercise of the right to terminate, singly or collectively, any of the Agreements by either Party, and/or a jurisdictional regulatory authority, may result in one Party achieving an unintended operational or economic advantage over the remaining Party; and

WHEREAS, both Parties desire to establish certain rights to terminate any or all of the Agreements in the event one Party exercises their termination rights under one or more of the Agreements, and/or a jurisdictional regulatory authority orders the termination of one or more of the Agreements.

NOW, THEREFORE, in consideration of the premises and mutual covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of which are acknowledged by the Parties, the Parties mutually agree as follows:

1. In the event either Party terminates one or more of the Agreements (the "Initiating Party"), the Party not terminating the agreement (the "Remaining Party") shall have the right, but not the obligation, to terminate any or all of the Agreements remaining in force on the earliest effective date of termination of the Agreement or Agreements terminated by the Initiating Party; provided, however, that such termination right shall not be available to the Remaining Party if the Initiating Party terminates any of the Agreements due to the default of the Remaining Party thereunder.
2. In the event a jurisdictional regulatory authority orders the termination of any or all of the Agreements, the Parties shall individually (and unilaterally) have the right, but not the obligation, to terminate any or all of the Agreements remaining in force on the earliest effective date of termination of the Agreement(s) terminated by the jurisdictional regulatory authority.
3. Nothing in this Master Agreement shall reduce or modify the unilateral right of Shipper to terminate the Gas Transportation Agreement at Shipper's sole option upon eighteen (18) months prior written notice to Transporter, pursuant to Section 7.1 thereof.
4. In all other respects, this Master Agreement shall have no effect on the Agreements, which shall remain in full force and effect.

IN WITNESS WHEREOF, the Parties have duly executed this Amendment, in multiple originals, effective as of the day and year first above written.

Chesapeake Utilities Corporation

Polk Power Partners, L.P.

By: 

By: Polk Power GP, Inc., its General Partner

By: 

Name: JOHN B. SCHWINKATIS

Name: Malcolm W. Jacobson

Title: President

Title: General Manager

Date: August 24, 2005

Date: August 24, 2005



## **EXHIBIT C**

## DELIVERY POINT LEASE AGREEMENT

This Delivery Point Lease Agreement (this "Lease"), is made and entered into on the 24th day of August 2005, to be effective January 1, 2005 (the "Effective Date") by and between Polk Power Partners, LP, a Delaware limited partnership ("Lessor"), and Chesapeake Utilities Corporation, a Delaware corporation, ("Lessee"), each of Lessor and Lessee being sometimes referred to herein individually as "Party" or collectively as the "Parties").

WHEREAS, Lessor owns and operates a cogeneration facility located at Noralyn Commerce Industrial Park, Polk County, Florida, (the "Plant"), and owns and operates certain gas receiving property and equipment directly interconnected to the Florida Gas Transmission ("FGT") pipeline at a pipeline interconnect location designated by FGT as Delivery Point DRN 153710 (as hereinafter more particularly defined, the "Facilities"); and

WHEREAS, Lessee is a public utility and owns and operates a natural gas distribution system within Central Florida, is qualified and experienced in the operation of natural gas pipeline facilities, and desires to lease the Facilities from Lessor for use in delivering gas to Lessor; and

WHEREAS, Lessor is willing to lease the Facilities to Lessee for use by Lessee in providing service to Lessor.

NOW, THEREFORE, in consideration of the premises and mutual covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of which are acknowledged by the Parties, the Parties mutually agree as follows:

**Section 1 - Lease.** Lessor hereby leases to Lessee, and Lessee hereby leases from Lessor, effective as of the Effective Date and upon and subject to the terms and conditions herein set forth, the following described property:

The gas receiving and associated pipeline, valves, meters, electronic control equipment and such other property as is incorporated therein or affixed or appurtenant thereto, being referred to herein as the "Facilities" located in the State of Florida, extending from the point at the connection of the facilities of FGT and the Plant at which the gas leaves the outlet side of the measuring equipment of FGT and enters Lessor's Facilities, as more particularly described in "Attachment A", which is attached hereto, incorporated herein and made a part hereof by reference.

**Section 2 - Term.** This Lease shall be in effect as of January 1, 2005 and shall continue in effect through the month of December 2015, (the "Initial Term".) This Lease may be terminated at any time during the Initial Term or any extended period by either Party, subject to the following: (a) the Party initiating the termination provides written notice to the other Party no less than thirty (30) days prior to any submittal, by either Party, to FGT requesting termination of Lessee as the authorized Delivery Point Operator and/or authorization of a change in Polk Power Partners' Delivery Point Operator, and (b) the

effective date of the termination of this Lease shall be the effective date established by FGT in its confirmation letter(s) to the Parties confirming the change in Delivery Point Operator for Polk Power Partners. Subsequent to the expiration of the Initial Term, this Lease shall be extended on a year-to-year basis ("Secondary Term"), unless either Party gives written notice of termination to the other Party, not less than ninety (90) days prior to the expiration of any annual period.

**Section 3 - Rent.** During the Initial Term and any Secondary Term of this Lease, Lessee shall pay to Lessor rent in the amount of \$10.00 annually, the first such payment being due within twenty (20) days following the Effective Date, and successive annual payments in said amount being due within twenty (20) days following each anniversary of the Effective Date (rent being due for any fractional portion of any year in proportion). All rent payments shall be made to Lessor at the address set forth in Section 14 of this Lease, or at such other address as Lessor may designate by written notice to Lessee, unless Lessor shall assign this Lease and the right to receive the rent hereunder, in which case rent shall be paid to Lessor's assignee after written notice of such assignment, if any, has been duly given to Lessee by Lessor. All rent shall be paid without notice or demand, and without abatement, deduction or set-off of any amount whatsoever.

**Section 4 - Use, Operation and Maintenance of Delivery Point.**

(a) Use of Delivery Point; Records and Reports. During the term of this Lease, Lessee shall use the Facilities for the purpose of transporting and delivering gas to Lessor, and for such other purposes as may be incidental thereto, and for no other purpose; provided, however, that Lessee's use of such Facilities shall comply in all respects with all applicable laws, ordinances and regulations, tariffs, orders, or directives of any governmental body having jurisdiction; and provided further that Lessee's use of the Facilities shall not, without the prior written consent of Lessor, and notwithstanding any other agreement between Lessor and Lessee to the contrary, cause any interruption in Lessor's ability to receive the Plant's full requirements for natural gas under the delivery conditions as set forth in Lessor's FGT Transportation Service Agreement(s) related to the above referenced Delivery Point. Lessee shall comply at all times with the operating and periodic maintenance requirements of Parts 191 and 192, Title 49, Code of Federal Regulations, and Chapter 25-12, Florida Administrative Code, as well as any applicable orders or directives of the Florida Public Service Commission. Lessee shall be responsible for the cost associated with the periodic maintenance of the Facilities as required by law and/or governmental regulation. Lessee shall not be responsible for the repair or replacement of the Facilities, or any portion thereof, as may be required from time to time during the term of this Lease. Lessee shall prepare and maintain all books and records required by any applicable laws, regulations or ordinances to be prepared and maintained by the owner or lessee of the Facilities, and prepare and file (or submit to Lessor for filing, as the case may be) all reports with governmental bodies required by any applicable laws, regulations or ordinances to be filed by the owner or lessee of the Facilities, in connection with Lessee's operation or maintenance of the Facilities.

(b) Records, Access, etc. During the term of this Lease, Lessor shall make available to Lessee Lessor's records (or copies thereof) relating to the design, permitting, construction and operation of the Facilities, including, without limitation, regulatory filings, schematics, blueprints and maintenance records, provided, however, that to the extent any such data, files or records are not limited in scope to the Facilities, Lessor shall (i)

only provide copies of such information, and (ii) be allowed to redact from such copies any and all portions of such information that pertain to matters beyond the scope of the Facilities. Lessor shall provide to Lessee reasonable access to the Facilities as required for Lessee to operate, maintain and respond to emergency situations associated with the Facilities. Nothing herein shall limit or restrict Lessor's access to the Facilities.

(c) Audit Rights. Lessor shall have the right to review and audit, during normal business hours, on reasonable prior notice and at its own expense, Lessee's records relating to services performed or required to be performed by Lessee pursuant to this section.

**Section 5 - Operation and Maintenance Fee**. For the services provided herein, Lessor shall pay Lessee the sum of \$20,000.00 within thirty (30) days of the execution of this Lease and, further, during the term of this Lease, Lessor shall pay to Lessee an Operation and Maintenance Fee in the amount of \$2,500.00 per month, payable retroactively as of the Effective Date. Lessee shall bill the Operations and Maintenance Fee to Lessor each month on Lessee's monthly gas transportation statement to Lessor; provided, however, that any unpaid Operations and Maintenance Fees attributable to months prior to the execution hereof shall be added (without interest thereon) to the first monthly gas transportation statement after the month of execution hereof.

**Section 6 - Warranties**. Lessee agrees that it has entered into this Lease based upon its own judgment and inspection of the Facilities and disclaims any reliance upon any statements or representations with respect to the Facilities made by Lessor.

**Section 7 - Title**. Title to the Facilities shall at all times remain in Lessor, and Lessee shall, at its own expense, protect and defend the title of Lessor and keep it free and clear of all claims and liens other than the rights of Lessee hereunder and claims and liens created by or arising through Lessor. The Facilities shall remain personal property regardless of their attachment to or placement within realty.

**Section 8 - Taxes**. Lessor agrees that, during the term of this Lease, it will retain the obligation to pay all taxes, assessments, and other governmental charges or fees levied or assessed upon the Facilities.

**Section 9 - Insurance**. Both Parties shall, during the term hereof, maintain in force and effect property damage and casualty insurance protecting the Facilities from all risks in a face amount not less than the full value of the Facilities, and liability insurance with combined single limits of not less than \$1,000,000; each Party naming the other Party as an additional insured. Both Parties shall provide certificates of such insurance coverages to the other Party, and all policies shall require the giving of written notice by each Party to the other Party not less than thirty (30) days prior to cancellation or change in coverage.

**Section 10 - Indemnification**.

**10.1** For value received and to induce Lessee to enter into this Lease, Lessor agrees to protect, defend (at Lessor's expense and by counsel reasonably satisfactory to Lessee), indemnify, and save and hold harmless Lessee, its officers, directors, shareholders, employees, agents, successors and assigns, from and against all direct or indirect costs, expenses, damages, losses, obligations, lawsuits, appeals, claims, or

liabilities of any kind or nature (whether or not such claim is ultimately defeated), including in each instance, but not limited to, all costs and expenses of investigating and defending any claim at any time arising and any final judgments, compromises, settlements, and court costs and attorney's fees, whether foreseen or unforeseen (including all such expenses, court costs, and attorney's fees in the enforcement of Lessee's rights hereunder) incurred by Lessee in connection with, arising out of, resulting from, relating to, or incident to:

1. any breach of any of the representations, warranties, or covenants of Lessor contained in this Lease, or in any Exhibit, Schedule, or other document attached hereto and made a part hereof, or provided pursuant hereto, specifically including but not limited to:
  - (a) to the extent caused by Lessor or its designee or agent (other than Lessee), any FGT penalties or other expenses or liabilities for unauthorized overrun or underrun Gas, for imbalances on a pipeline system, for failure to comply with FGT's FERC Tariff, or for Lessor's failure to comply with a curtailment notice or to take deliveries as scheduled; and
  - (b) any claim by a gas supplier or other Party contesting Lessor's warranty of title to Gas and related obligations;
2. any claim by a creditor of Lessor as a result of any transaction pursuant to or contemplated by this Lease; and
3. any claim against Lessee relating to any obligation or liability of Lessor, or its affiliates, or any of them of any kind or nature.

In no event shall Lessee be indemnified to the extent of any negligence on the part of Lessee.

In the event that any claim or demand for which Lessor would be liable to Lessee hereunder is asserted against or sought to be collected from Lessee by a third party, Lessee shall promptly notify Lessor of such claim or demand, specifying the nature of such claim or demand and the amount or the estimated amount thereof, if determination of an estimate is then feasible (which estimate shall not be conclusive of the final amount of such claim or demand) (the "Claim Notice"). Lessor shall have twenty (20) days, or such shorter period as the circumstances may require if litigation is involved, from the personal delivery or mailing of the Claim Notice (the "Notice Period") to notify Lessee:

- A. whether or not it disputes its liability to Lessee hereunder with respect to such claim or demand; and,
- B. whether or not it desires, at its sole cost and expense, to defend Lessee against such claim or demand.

In the event that Lessor notifies Lessee within the Notice Period that it desires to defend Lessee against such claim or demand, Lessor shall have the right to defend Lessee by appropriate proceedings, which proceedings shall be promptly settled or prosecuted by

Lessor to a final conclusion in such manner as to avoid any risk of Lessee becoming subject to any liability for such claim or demand or for any other matter. If Lessee desires to participate in, but not control, any defense or settlement, it may do so at its sole cost and expense. If Lessor elects not to defend Lessee against such claim or demand, whether by not giving Lessee timely notice as provided above or otherwise, then the amount of any such claim or demand, or, if the same is contested by Lessor or by Lessee (Lessee having no obligation to contest any such claim or demand), then that portion thereof as to which such defense is unsuccessful, shall be conclusively deemed to be a liability of Lessor and subject to indemnification as provided hereinabove.

**10.2** For value received and to induce Lessor to enter into this Lease, Lessee agrees to protect, defend (at Lessee's expense and by counsel reasonably satisfactory to Lessor), indemnify, and save and hold harmless Lessor, its officers, directors, shareholders, employees, agents, successors and assigns, from and against all direct or indirect costs, expenses, damages, losses, obligations, lawsuits, appeals, claims, or liabilities of any kind or nature (whether or not such claim is ultimately defeated), including in each instance, but not limited to, all costs and expenses of investigating and defending any claim at any time arising and any final judgments, compromises, settlements, and court costs and attorney's fees, whether foreseen or unforeseen (including all such expenses, court costs, and attorney's fees in the enforcement of Lessor's rights hereunder) incurred by Lessor in connection with, arising out of, resulting from, relating to, or incident to:

1. any breach of any of the representations, warranties, or covenants of Lessee contained in this Lease, or in any Exhibit, Schedule, or other document attached hereto and made a part hereof, or provided pursuant hereto;
2. any claim by a creditor of Lessee as a result of any transaction pursuant to or contemplated by this Lease; and
3. any claim against Lessor relating to any obligation or liability of Lessee, or its affiliates, or any of them of any kind or nature.

In no event shall Lessor be indemnified to the extent of any negligence on the part of Lessor.

In the event that any claim or demand for which Lessee would be liable to Lessor hereunder is asserted against or sought to be collected from Lessor by a third party, Lessor shall promptly notify Lessee of such claim or demand, specifying the nature of such claim or demand and the amount or the estimated amount thereof, if determination of an estimate is then feasible (which estimate shall not be conclusive of the final amount of such claim or demand) (the "Claim Notice"). Lessee shall have twenty (20) days, or such shorter period as the circumstances may require if litigation is involved, from the personal delivery or mailing of the Claim Notice (the "Notice Period") to notify Lessor:

- A. whether or not it disputes its liability to Lessor hereunder with respect to such claim or demand; and,
- B. whether or not it desires, at its sole cost and expense, to defend Lessor against such claim or demand.

In the event that Lessee notifies Lessor within the Notice Period that it desires to defend Lessor against such claim or demand, Lessee shall have the right to defend Lessor by appropriate proceedings, which proceedings shall be promptly settled or prosecuted by Lessee to a final conclusion in such manner as to avoid any risk of Lessor becoming subject to any liability for such claim or demand or for any other matter. If Lessor desires to participate in, but not control, any defense or settlement, it may do so at its sole cost and expense. If Lessee elects not to defend Lessor against such claim or demand, whether by not giving Lessor timely notice as provided above or otherwise, then the amount of any such claim or demand, or, if the same is contested by Lessee or by Lessor (Lessor having no obligation to contest any such claim or demand), then that portion thereof as to which such defense is unsuccessful, shall be conclusively deemed to be a liability of Lessee and subject to indemnification as provided hereinabove.

**10.3** The foregoing indemnification and hold harmless agreement shall benefit both Parties from the Effective Date hereof and shall survive the termination of this Lease.

**Section 11 - Failure to Perform: Default and Remedies.**

**11.1** The following shall constitute an event of default:

- (a) Either Party fails to satisfy in full the terms and conditions of this Lease;
- (b) Either Party voluntarily suspends the transaction of business where there is an attachment, execution or other judicial seizure of any portion of its respective assets;
- (c) Either Party becomes insolvent or unable to pay its debts as they mature or makes an assignment for the benefit of creditors;
- (d) Either Party files, or there is filed against it, a petition to have it adjudged bankrupt or for an arrangement under any law relating to bankruptcy;
- (e) Either Party applies for or consents to the appointment of a receiver, trustee or conservator for any portion of its properties or such appointment is made without its consent; or
- (f) Either Party is formally charged by any government agency with engaging in any unlawful activities.

**11.2** If either Party fails to perform its obligations under this Lease, the non-defaulting Party shall notify the defaulting Party in writing (the "Default Notice") within three (3) days after the day that the non-defaulting Party obtained knowledge of such failure to perform. Each such Default Notice shall describe in detail the act or event constituting the non-performance by the defaulting Party. The defaulting Party shall have five (5) days after its receipt of the Default Notice to cure any such failure to perform, unless such cure can not be accomplished using reasonable efforts within said five (5) day period, in which case the defaulting Party shall have such additional time as may be necessary, using reasonable efforts, to cure such non-performance (the "Default Cure Period").

**11.3** In the event of a default that is not cured within the Default Cure Period, the non-defaulting Party may, at its option, exercise any, some, or all of the following remedies, concurrently or consecutively:

- (a) any remedy specifically provided for in this Lease, and/or,
- (b) terminate the Lease upon written notice to the defaulting Party; and/or,
- (c) any other remedy existing at law or in equity.

**Section 12 - Assignment.** This Lease shall be binding upon, and inure to the benefit of, the respective successors and permitted assigns of the Parties. The respective rights and obligations of either Party hereto shall not be assignable without the consent of the other Party, and such consent shall not be unreasonably withheld, except that this Lease may be assigned without further approval as collateral security to any bank or financial institution ("Lender") providing financing to Lessor in connection with Lessor's cogeneration facility. Lessee agrees to execute any consent to assignment and other such documents in connection with any assignment to Lender, as Lender may reasonably request.

**Section 13 - Mutually Beneficial Transactions.** Lessor and Lessee recognize that, from time to time, circumstances may arise that provide one or both Parties an opportunity to achieve financial or operational benefits, resulting from the Delivery Point Operator services described in this Agreement, that exceed the benefits associated with typical monthly imbalance resolution and FGT Operational Order response. In the event either Party identifies such an opportunity, and both Parties mutually agree to a scope of services or a defined course of action, the compensation for the services and/or action shall be negotiated between the Parties. Terms and conditions of such transactions shall be agreed upon at the time of the transaction and shall be recorded and confirmed in writing within five (5) business days after the transaction. The Parties agree that any such transaction shall have no adverse impact on customers receiving transportation service under Central Florida Gas Company's gas tariff as approved by the Florida Public Service Commission.

**Section 14 - Notices.** Any notice, demand, request or invoice provided for in this Lease shall be in writing and deemed given when delivered by hand or deposited in the U.S. Mail postage prepaid addressed to each Party as set forth below:

**Lessee:**

Chesapeake Utilities Corporation  
Florida Division  
P.O. Box 960  
Winter Haven, FL 33882

**Lessor:**

Polk Power Partners, L.P.  
C/o Northern Star Generation Services  
Company, LLC  
2929 Allen Parkway, Suite 2200  
Houston, Texas 77019

**Administrative Matters:**

Attention: Florida Regional Manager  
Telephone: (863) 293-2125, ext. 2922  
Facsimile: (863) 294-3895

**Administrative Matters:**

Attention: Malcolm Jacobson  
Telephone: (713) 580-6335  
Facsimile: (713) 580-6320



E-mail: tgeoffroy@cfgas.com

E-mail: malcolm.jacobson@northernstargen.com

**Invoices/Payment:**

Attention: Senior Financial Analyst  
Telephone: (863) 293-2125, ext. 2913  
Facsimile: (863) 294-3895  
E-mail: bbilinski@cfgas.com

**Additional Notice to:**

Polk Power Partners, L.P.  
C/o Bear Stearns and Co., Inc.  
16945 Northchase Drive  
Suite 1560  
Houston, Texas 77060

Attention: David Zimmerman  
Telephone: (832) 601-2607  
Facsimile: (832) 601-2680  
E-mail: dzimmerman@bear.com

**Section 15 - Independent Parties.** Lessee and Lessor shall perform hereunder as independent Parties, and neither Lessee nor Lessor is in any way or for any purpose, by nature of this Lease or otherwise, a partner, joint venturer, agent, employer or employee of the other. Nothing in this Lease 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.

**Section 16 - No Waiver.** No waiver of any of the provisions hereof shall be deemed to be a waiver of any other provision, whether similar or not. No waiver shall constitute a continuing waiver. No waiver shall be binding on a Party unless executed in writing by that Party.

**Section 17 - Amendments.** This Lease shall not be amended except by an instrument in writing signed by the Party against which enforcement of the amendment is sought. A change in the place to which notices hereunder must be sent shall not be deemed nor require an amendment hereof, provided such change is communicated pursuant to Section 14.

**Section 18 - Entire Agreement.** On and after the Effective Date, this Lease constitutes the entire agreement between the Parties with respect to Lessee's use of the Facilities and the operation, maintenance and repair services to be provided for the Facilities, and supersedes all prior agreements and understandings between the Parties with respect thereto.

**Section 19 - Governing Law.** This Lease and any dispute arising hereunder shall be governed by, and interpreted in accordance with, the laws of the State of Florida and shall be subject to all applicable laws, rules and orders of any Federal, state or local governmental authority having jurisdiction over either or both of the Parties, their facilities or the transactions contemplated. 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 Lease shall be in a court having jurisdiction and located in Polk County, Florida.

**Section 20 - Dispute Resolution.**

(a) Except as provided in paragraph (b) below, prior to initiating arbitration to resolve a dispute under this Lease, the Parties agree to submit any and all disputes to pre-arbitration mediation under the Florida Rules for Certified and Court Appointed Mediators and Florida Rules of Civil Procedure 1.700 through 1.73 and 1.750, excluding subsection (b), together with the rules of the American Arbitration Association or the Foundation for Dispute Resolution. Accordingly, the Parties agree to strictly follow said rules and abide by any agreement entered into as a result of such mediation. Good faith compliance with this section shall be considered a condition precedent to the right to arbitration under this Lease. This section shall be deemed to be a material inducement to each Party's entering into this Lease.

(b) Subject to paragraph (a) above, any dispute relating to or arising under this Lease shall be decided by arbitration conducted in accordance with the arbitration rules and regulations (latest edition) established by the American Arbitration Association ("AAA"), by a single arbitrator appointed by the Parties or, failing agreement as to such appointment within thirty (30) days of a Party's proposal of an arbitrator, by a neutral arbitrator appointed by the AAA. The physical location of the arbitration shall be in the State of Florida. The Parties will pay the cost of the arbitrator as he or she directs. The Parties agree to be bound by the arbitrator's final decision, and judgment upon such final decision may be entered in any court having jurisdiction pursuant to Section 19 hereof, unless the court determines that the decision: (a) was procured by corruption, fraud or undue means, (b) was the result of evident partiality or misconduct by the arbitrator, or (c) would, if given effect, be unlawful under federal or Florida law.

**Section 21 - Legal Fees.** In the event of litigation between the Parties hereto arising out of or in connection with this Lease, the reasonable attorneys' fees and costs of the Party prevailing in such arbitration or litigation shall be paid by the other Party.

**Section 22 - Lessee's Tariff Provisions.** Subsection 9 (Force Majeure) of the General Terms and Conditions of Lessee's Natural Gas Tariff filed with the Florida Public Service Commission, including any amendments thereto during the term of this Lease, are hereby incorporated into this Lease and made a part hereof for all purposes. In the event of any conflict between said provision of Lessee's Natural Gas Tariff and specific provisions of this Lease, the latter shall prevail.

IN WITNESS WHEREOF, the Parties hereto have caused this Lease to be executed by their respective duly authorized officers as of the date first set forth above.

**LESSEE**

**CHESAPEAKE UTILITIES CORPORATION**

By: 

Name: JIM R SCHIMKROTZ


Title: PRESIDENT

Date: August 24, 2005

**LESSOR**

**POLK POWER PARTNERS, L.P.**

By: POLK POWER GP, INC., its General Partner

By: 

Name: Malcolm W. Jacobson

Title: General Manager

Date: August 24, 2005

**ATTACHMENT "A"**

**To**

**Delivery Point Lease Agreement**

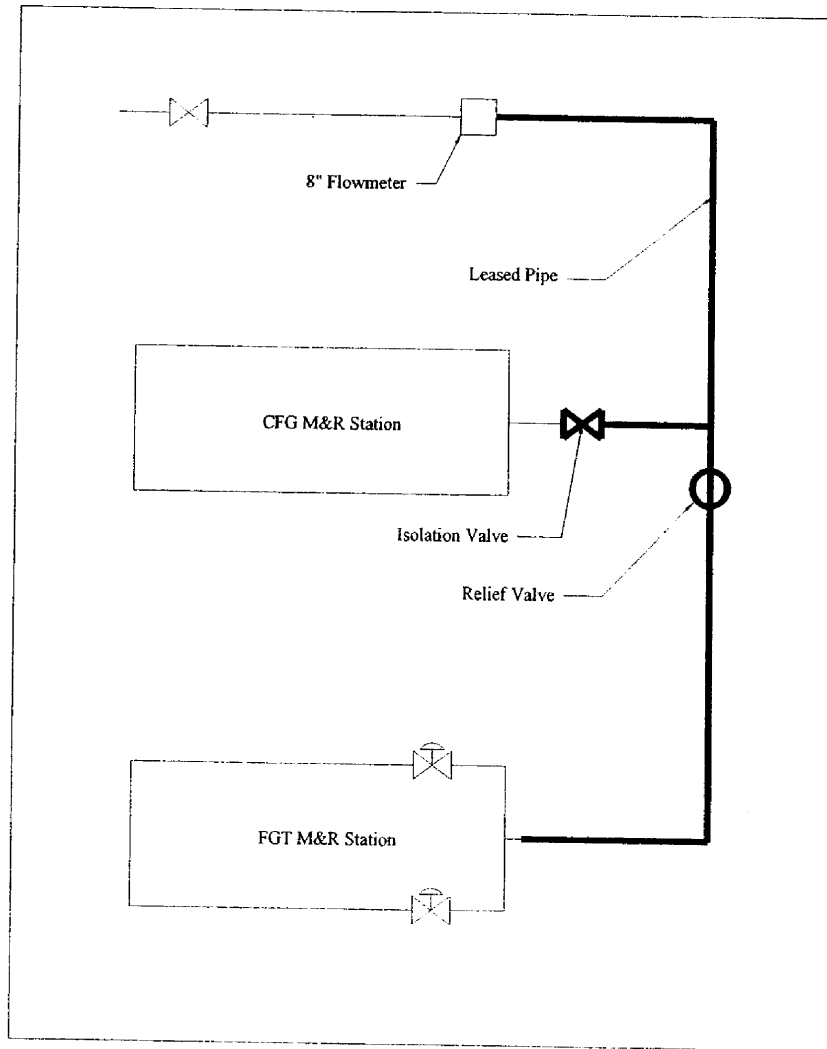
**Between**

**Polk Power Partners, L.P.**

**And**

**Chesapeake Utilities Corporation**

**DESCRIPTION AND LOCATION OF FACILITIES**



## **EXHIBIT D**

August 24, 2005

Polk Power Partners, L.P.  
C/o Northern Star Generation Services Company, LLC  
2929 Allen Parkway, Suite 2200  
Houston, Texas 77019

Attention: Malcolm Jacobson

Re: Letter Agreement: CFG Transportation Aggregation Service

Dear Mr. Jacobson:

Chesapeake Utilities Corporation, d/b/a Central Florida Gas (CFG), has reviewed the request of Polk Power Partners, L.P. ("the Partnership"), the prospective Pool Manager under the Transportation Aggregation Service (TAS) Agreement, to make certain modifications to the Form of Service Agreement as provided by Section 17.2 General Terms and Conditions of the CFG tariff. The tariff requires that two administrative actions be completed prior to activating a Customer Pool. A TAS Pool Manager Agreement (TAS Agreement) must be executed between CFG and the entity designated to manage the Customer Pool. The tariff also requires that customers interested in joining the pool must execute and submit to CFG a Letter of Authorization (LOA) selecting a Pool Manager and accepting the TAS tariff provisions.

The tariff clearly provides that an end-use customer who has shipper status on the interstate pipelines serving CFG's distribution system may be a Pool Manager and aggregate its facilities. The entity recognized as a Shipper on Florida Gas Transmission Company ("FGT") would be the Pool Manager of record and execute the TAS Agreement. Both the CFG and respective pipeline tariffs allow Shippers to establish a Designee or Agent to handle the various transactions and administrative activities related to transportation service.

CFG and the Partnership recognize that the creation of a TAS Customer Pool for the Polk Power Partner L.P. and the Orange Cogeneration L.P. cogeneration facilities is intended principally to provide the Partnership a greater degree of flexibility in resolving monthly shipper imbalances and responding to operational orders (Alert Days, OFO's, etc.). CFG recognizes that the Partnership's TAS Customer Pool will require some modification of the standard CFG TAS Agreement to accommodate certain special conditions of service. The TAS Agreement modifications are as follows:

1. Article II - Scope of Capacity Relinquishment, is deleted in its entirety. CFG and the Partnership have existing agreements in place for capacity relinquishment. In addition, the Partnership holds service agreements directly with FGT for capacity. No capacity relinquishment from CFG will occur under the TAS Agreement, and the sixth Whereas clause in the recitals is deleted in its entirety, and any and all references and cross-references to Article II or Sections within Article II shall be without meaning, and may be deemed to be references to either (a) the appropriate provisions of the Service Agreement or (b) the applicable provisions of the Capacity Relinquishment Agreement between Chesapeake and Pool Manager, as context requires. In addition, CFG recognizes that, unlike other TAS Pool Managers, the Partnership is not a Gulfstream shipper since all gas quantities for the two cogeneration facilities are transported on FGT. Article II in the standard TAS Agreement would otherwise have required that the Pool Manager execute a Service Agreement with the Gulfstream Pipeline.
2. Article III - Relinquished Capacity Charges and Refunds, is deleted in its entirety. Given that no capacity will be released under the TAS agreement, the provisions for accepting and paying for capacity included in Article III are not relevant. Any and all references and cross-references to Article III or Sections within Article III shall be without meaning, and may be deemed to be references to either (a) the appropriate provisions of the Service Agreement or (b) the applicable provisions of the Capacity Relinquishment Agreement between Chesapeake and Pool Manager, as context requires.
3. Article IV - Use of Relinquished Capacity; Recall Rights, is deleted in its entirety. Again, this Article is not relevant since no capacity is relinquished under the TAS Agreement. Any and all references and cross-references to Article IV or Sections within Article IV shall be without meaning, and may be deemed to be references to either (a) the appropriate provisions of the Service Agreement or (b) the applicable provisions of the Capacity Relinquishment Agreement between Chesapeake and Pool Manager, as context requires.
4. Article V - Firm Delivery Requirements, Section 5.4 Penalties, is deleted in its entirety. The penalty provisions established in the TAS Agreement were originally intended to ensure that a Pool Manager provided reliable service to the commercial customers served in the Customer Pool. Given that the Partnership, as Pool Manager, is providing gas service to its own facilities, it has no need for CFG to establish a reliable service provision. Any and all references and cross-references to Article V, Section 5.4 Penalties shall be without meaning, and may be deemed to be references to the appropriate provisions of either (a) the appropriate provisions of the Service Agreement or (b) the applicable provisions of the Capacity Relinquishment Agreement between Chesapeake and Pool Manager, as

context requires.

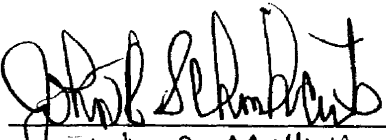
5. In the mirroring indemnification provisions of Sections 9.3(a) and 9.3(b), the phrase “by counsel satisfactory to” shall be replaced by phrase “by counsel reasonably satisfactory to.”
6. In the indemnification provisions of Pool Manager in Sections 9.3(a), the list of five (5) items shall be modified as follows:
  - a. Item 1a shall commence with the phrase: “to the extent caused by Pool Manager or its designee or agent (other than Chesapeake)”, and before the words: “failure to comply with a curtailment notice” there shall be added: “Pool Manager’s”;
  - b. Item 4 is deleted in its entirety; and
  - c. Item 5 (re-numbered Item 4 due to the deletion of Item 4), is modified by deleting the following phrase at the end: “, pursuant to Section 10.5 of this Agreement.”
7. In the indemnification provisions of Chesapeake in Sections 9.3(b), the list of four (4) items shall be modified as follows:
  - a. Item 4 is deleted in its entirety.
8. In Section 15.3 (Revisions to Taxes), after the phrase: “should increase any present tax or levy additional tax, relating to the service provided by Chesapeake under this Agreement” there shall be added the parenthetical, “(other than a tax on Chesapeake’s income)”.
9. In all other respects the TAS Agreement shall remain unchanged and in full force and effect.

In as the foregoing deviates from the CFG tariff, CFG, upon execution hereof, shall promptly file for Florida Public Service Commission acknowledgement or approval of this letter agreement, and the Partnership agrees to provide all reasonable assistance in support thereof.



**IN WITNESS WHEREOF**, the parties have duly executed this Letter Agreement, in multiple originals, effective as of January 1, 2005.

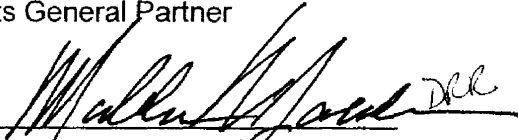
Chesapeake Utilities Corporation  
d/b/a Central Florida Gas

BY:   
NAME: JOHN P. SCHIMKOWITZ  
TITLE: PRESIDENT

DATE: August 24, 2005

Polk Power Partners, L.P.

By: Polk Power GP, Inc.,  
its General Partner

BY:   
NAME: Malcolm W. Jacobson  
TITLE: General Manager

DATE: August 24, 2005

## **EXHIBIT E**

**INCREMENTAL COST OF SERVICE STUDY  
POLK POWER PARTNERS**

CHESAPEAKE UTILITIES CORPORATION  
FLORIDA DIVISION

ESTIMATED RATE BASE AND RETURN

<u>Description</u>	<u>Amount</u>
Cost of Plant: Gross investment in plant	\$1,243,036
Accumulated Depreciation	(\$426,734)
	<hr/>
Net Plant	\$816,302
Working Capital	\$0
Accumulated Deferred Income Taxes	\$0
Deferred Investment Tax Credit	<hr/> \$0
Rate Base	<hr/> <u>\$816,302</u>
Long Term Debt @ 0.00%	0
Common Equity @ 0.00%	<hr/> 0
Total Return @ 8.23%	<hr/> <u>\$67,182</u>

**INCREMENTAL COST OF SERVICE STUDY  
POLK POWER PARTNERS**

CHESAPEAKE UTILITIES CORPORATION  
FLORIDA DIVISION

ESTIMATED INCOME TAXES

<u>Description</u>	<u>Total</u>
1. Rate Base	<u>\$816,302</u>
2. Return On Rate Base (Line 1 x Rate of Return)	\$67,182
3. Interest on Debt	<u>(\$25,142)</u>
4. Net Income after Taxes	\$42,040
5. Divide by 1-Tax Rate	0.6237
6. Taxable Income	<u>\$67,403</u>
7. Income Taxes @ 37.63%	<u>\$25,364</u>

**INCREMENTAL COST OF SERVICE STUDY  
POLK POWER PARTNERS**

CHESAPEAKE UTILITIES CORPORATION  
FLORIDA DIVISION

COST OF SERVICE

<u>Cost of Service</u>	<u>Amount</u>
Operation & Maintenance	\$ 18,977
Depreciation	42,988
Taxes - Other Than Income 1/	25,943
Income Taxes	25,364
Return @ 8.23% 2/	<u>67,182</u>
 Total Operating Costs	 \$ <u><u>180,453</u></u>

NOTES:

1/ 8.23% Return is the Company's mid-point rate of return from June 2005 surveillance report as filed with the FPSC.

**INCREMENTAL COST OF SERVICE STUDY  
POLK POWER PARTNERS**

CHESAPEAKE UTILITIES CORPORATION  
FLORIDA DIVISION

ESTIMATED O&M EXPENSES

<u>Description</u>	<u>Amount</u>
1. Cathodic Protection Testing - 8 hours/year @ \$22.00/hr	\$176
2. Leak Testing - 4 hours/year @ \$22./hr plus \$25 Materials	\$113
3. Pipeline Marker Replacements - 5 markers/yr @ \$12 each + 5 hours/year @ \$22.00/hr	\$170
4. Repaint Station every 3 years - 8 hours/yr @ \$21./hr plus \$384 materials	\$552
5. Maintenance and calibration of EFM equipment - 50 hours/yr @ \$25./hr plus \$500 materials	\$1,750
6. Maintenance and calibration of Flow Control Valve - 36 hours/yr @ \$25.00/hr plus \$2,720 materials	\$3,620
7. Meter Test every 5 years and Repair - 6 hours/yr @ \$25.00/hr plus \$500 materials	\$650
8. Meter Parts	\$300
9. Annual Regulator Testing and Repair - 12 hours/yr @ \$25.00/yr plus \$200 materials	\$500
10. Telemetry Monitoring and T&E Functions - 4 hours/month @ \$31/hr	\$1,488
11. Annual Odorant Expenses - 23 hours/yr. @ \$23.00/hr., Parts \$619	\$1,148
12. Painting and Maintenance of City Gate Station	\$150
13. Cathodic Protection Expense - replacement of anodes	\$750
14. Railroad Crossing Expense	\$1,000
15. Emergency Valve Maintenance - 2 hours/yr @ \$22.00/hr	\$44
16. Line Locating Expense - 3 hours/yr @ \$22.00/hr	\$66
17. Miscellaneous	<u>\$6,500</u>
 TOTAL ESTIMATED O & M EXPENSES	 <u><u>\$18,977</u></u>

**INCREMENTAL COST OF SERVICE STUDY  
POLK POWER PARTNERS**

CHESAPEAKE UTILITIES CORPORATION  
FLORIDA DIVISION

CAPITALIZATION AS  
FILED IN 2005 SURVEILLANCE REPORT

---

42.37%	Debt
<u>57.63%</u>	Common Equity, DIT, ITC, Customer Deps.
<u>100.00%</u>	
3.08%	Weighted Average Cost of Service
\$816,302	Rate Base
<u>\$25,142</u>	Interest Expense

**INCREMENTAL COST OF SERVICE STUDY**

**CHESAPEAKE UTILITIES CORPORATION  
FLORIDA DIVISION**

**CALCULATION OF OTHER TAXES**

---

**PROPERTY TAX RATE**

2004 Property taxes	\$541,704
2003 Plant	\$29,900,183
Average tax rate	0.0181
x Gross Plant	\$1,243,036
Property taxes	<u>\$22,499</u>

**ESTIMATED SALES REVENUE** \$688,752

Revenue Related Taxes \$3,444

**TOTAL OTHER TAXES** \$25,943