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September 19, 2011

BY HAND DELIVERY

Ms. Ann Cole, Clerk
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

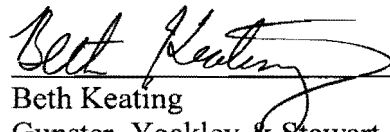
Re: New Filing: Petition by Peninsula Pipeline Company for Approval of Agreement with
Florida Public Utilities Company

Dear Ms. Cole:

Enclosed for filing, please find the original and 15 copies of Peninsula Pipeline Company's Petition for Approval of a Transportation Service Agreement with Florida Public Utilities Company. Attached to this Petition is a redacted version of the referenced Transportation Agreement. By separate filing also made today, Peninsula is submitting a Notice of Intent to Request Confidential Classification of certain information set forth in the Transportation Service Agreement.

Thank you for your assistance with this filing. As always, please don't hesitate to contact me if you have any questions whatsoever.

Sincerely,


Beth Keating
Gunster, Yoakley & Stewart, P.A.
215 South Monroe St., Suite 601
Tallahassee, FL 32301
(850) 521-1706

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DOCUMENT NUMBER-DATE
06751 SEP 19 =
FPSC-COMMISSION CLERK

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

Petition for Approval of Transportation)
Service Agreement with Florida Public) DOCKET NO.
Utilities Company by Peninsula Pipeline)
Company, Inc.) FILED: September 19, 2011

PETITION FOR APPROVAL OF TRANSPORTATION
SERVICE AGREEMENT BETWEEN PENINSULA PIPELINE
COMPANY, INC. AND FLORIDA PUBLIC UTILITIES COMPANY

Peninsula Pipeline Company, Inc. (“Peninsula” or “Company”), by and through its undersigned counsel, hereby files this Petition seeking approval of a Firm Transportation Service Agreement (“Agreement”) between the Company and Florida Public Utilities Company (“FPUC”), which is attached hereto as Attachment A. The Agreement provides for upstream interconnection of Peninsula’s facilities with the Southern Natural Gas Company, LLC’s facilities in Nassau County, Florida, and several downstream interconnections with FPUC’s facilities. In support of this request, the Company hereby states:

- 1) Peninsula is a natural gas transmission company subject to the Commission’s jurisdiction as prescribed under Chapter 368.101, et. seq., Florida Statutes. Its principal business address is:

Peninsula Pipeline Company, Inc.
1015 6th Street NW
Winter Haven, FL 33882

- 2) The name and mailing address of the persons authorized to receive notices are:

Beth Keating
Gunster, Yoakley & Stewart, P.A.
215 South Monroe St., Suite 601
Tallahassee, FL 32301
(850) 521-1706

Thomas A. Geoffroy
Vice President
1015 6th Street NW
Winter Haven, FL 33882

3) Peninsula is a Delaware corporation authorized to transact business in the State of Florida and a wholly-owned subsidiary of Chesapeake Utilities Corporation (“CUC”). Peninsula is engaged in the business of building pipeline laterals from interstate transmission pipelines to new customers. Peninsula provides firm transportation service only and does not engage in the sale of natural gas.

4) By Order No. PSC-07-1012-TRF-GP, issued December 21, 2007, the Commission approved the Company’s intrastate pipeline tariff, consistent with the Commission’s jurisdiction under Chapter 368, Florida Statutes. Therein, the Commission also determined that the tariff was consistent with the Commission’s prior Declaratory Statement, which provided additional parameters for Peninsula’s operations in the State.¹ The Company currently serves one customer in Florida -- the Florida Department of Corrections.

5) Pursuant to the Company’s tariff on file with the Commission, as well as Order No. PSC-07-1012-TRF-GP, the Company is allowed to undertake certain projects without express Commission approval. For instance, the Company is not required to seek prior approval if the customer is not currently receiving natural gas service from another entity, such as a local distribution company (“LDC”), and the customer’s facilities are located at a distance greater than one mile from the existing gas facilities of an investor-owned gas utility, a municipal gas utility, or a gas district. The Company also need not seek regulatory approval if it is engaged to serve an LDC that is not an affiliate of the Company.² Consistent with Section 368.105(3), Florida Statutes, for contracts such as these, the Company is only required to file affidavits from both the Company and the customer affirming that:

¹ Order No. PSC-06-0023-DS-GP, issued on 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, et seq.

² Peninsula Pipeline Company, Inc., Intrastate Pipeline Tariff, Original Vol. 1, Sheet No. 11, Section 3

- a. Neither the natural gas transmission company nor the customer had an unfair advantage during the negotiations;
- b. The rates are substantially the same as rates between the natural gas transmission company and two or more of those customers under the same or similar conditions of service; **or**
- c. Competition does or did exist either with another natural gas transmission company, another supplier of natural gas, or with a supplier of an alternative form of energy.

Section 368.105(3), Florida Statutes (emphasis added).

6) The Company is, however, required to seek Commission approval of projects in the following categories:

- a. Interconnection to an LDC in order to serve a customer downstream;
- b. Interconnection with an LDC to provide service to another LDC;
- c. Construction of facilities to serve a current LDC customer or one that is within 1 mile of the existing facilities of an investor-owned or municipal gas utility, or a gas district; and
- d. Other projects that are not otherwise specifically identified in the tariff as not requiring prior Commission approval.³

7) FPUC is a corporation organized under Florida law. As a result of corporate transactions, however, FPUC (like Peninsula) is now a corporate subsidiary of CUC. Pursuant to the provisions of Chapter 366, Florida Statutes, it is subject to economic regulation by the Commission. FPUC's principal offices are located at 401 South Dixie Highway, West Palm

³ Peninsula Pipeline Company, Inc., Intrastate Pipeline Tariff, Original Vol. 1, Sheet No. 12, Section 4

Beach, Florida 33401. Because both FPUC and Peninsula are corporate subsidiaries of CUC, the Company is required to seek Commission approval prior to entering into a contract to construct facilities and provide transportation service to FPUC, consistent with Sheet 12, Section 4 (d). As noted above, the approved tariff, consistent with Order No. PSC-06-0023-DS-GP, provides that the Company must seek approval for agreements unless an individual agreement fits the criteria set forth in the Company's tariff for an agreement that does not require prior Commission approval.⁴ The Agreement with FPUC would not meet any of the enumerated criterions; thus; Peninsula respectfully seeks Commission approval in this instance.

8) With regard to review of the Agreement under the standard set forth in Section 368.105, Florida Statutes, the Company submits that the Agreement was developed through an "arms length" transaction. Specifically, following a request for proposals extended by FPUC, Peninsula was awarded the contract over other competitive bidders.⁵

9) The rates in the contract between FPUC and Peninsula meet the requirements of Section 368.105(3), Florida Statutes, and the contract containing those rates is consistent with Orders Nos. PSC-06-0023-DS-GP and PSC-07-1012-TRF-GP and with Peninsula's tariff on file with the Commission. Moreover, as mentioned above, the contract was awarded through a competitive process involving other companies, which further underscores that the rates set forth therein are consistent with a "market rate" and are not otherwise "inherently unfair," as proscribed by the Court in the GTE Florida v. Deason decision.⁶ As such, the Company asks that the Agreement be approved.


⁴ Moreover, since the tariff expressly provides that the Company need not seek approval if it enters into an agreement with a non-affiliated LDC, the Company believes that it must therefore seek Commission approval when the converse situation arises.

⁵ See also GTE Florida Incorporated v. Deason, 642 So. 2d 545 (Fla. 1994)(determining that the appropriate review of an affiliate transaction considers ". . .whether the transactions exceed the going market rate or are otherwise inherently unfair.")

⁶ *Supra*, footnote 5.

WHEREFORE, Peninsula respectfully requests that the Commission approve the Transportation Service Agreement between Peninsula Pipeline Company, Inc., and Florida Public Utilities Company.

RESPECTFULLY SUBMITTED this 19th day of September, 2011.



Beth Keating
Gunster, Yoakley & Stewart, P.A.
215 South Monroe St., Suite 601
Tallahassee, FL 32301
(850) 521-1706

Attorneys for Peninsula Pipeline Company, Inc.

Attachment A
Transportation Services Agreement
(redacted)

DOCUMENT NUMBER-DATE
06751 SEP 19 =
FPSC-COMMISSION CLERK

PENINSULA PIPELINE COMPANY, INC.
FIRM TRANSPORTATION SERVICE AGREEMENT

THIS AGREEMENT entered into this ____ day of _____, 20__, by and between Peninsula Pipeline Company, Inc., a corporation of the State of Delaware (herein called "Company"), and Florida Public Utilities Company, a corporation of the State of Florida (herein called "Shipper").

WITNESSETH

WHEREAS, Shipper desires to obtain Firm Transportation Service from Company; and

WHEREAS, Shipper desires to be the Delivery Point Operator ("DPO"); and

WHEREAS, Company desires to provide Firm Transportation Service to Shipper in accordance with the terms hereof.

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
DEFINITIONS

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

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 FTS Agreement on any one Gas Day.

2.2 If, on any Day, 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 shall be set forth on Exhibit A of this Agreement.

PENINSULA PIPELINE COMPANY, INC.
FIRM TRANSPORTATION SERVICE 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 on Exhibit A of this Agreement.

3.2 The parties agree to execute and administratively file with the Commission an affidavit, in the form provided in this tariff, to comply with the provisions of the Regulatory Act.

3.3 If, during the term of this Agreement, the Federal Government, or any State, municipality or subdivision of such Government, should increase or decrease any present tax or levy any additional or eliminate any existing tax, relating to the service provided by Company under this Agreement, such change shall be implemented immediately upon the effective date of such change.

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 and shall continue in full force and effect for an initial period of thirty (30) years from the in-service date. Thereafter, the Agreement shall be extended on a year-to-year basis unless terminated by either party, with at least ninety (90) days written notice to the other party prior to the termination date.

4.2 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 other parts of this Agreement until such time as such monthly balancing and operational controls have been resolved.

4.3 In the event Shipper fails to pay for the service provided under this Agreement or otherwise fails to meet Company's standards for creditworthiness, 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, 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.

PENINSULA PIPELINE COMPANY, INC.
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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.

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). 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 Month in question, subject to any additional restrictions imposed by the Transporter or by Company pursuant to Company's tariff provisions.

PENINSULA PIPELINE COMPANY, INC.
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ARTICLE IX
MISCELLANEOUS PROVISIONS

9.1 Notices and Other Communications. Any notice, request, demand, statement or 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.
Post Office Box 960
Winter Haven, Florida 33882
Attention: Customer Services

Shipper: Florida Public Utilities Company
401 South Dixie Highway
West Palm Beach, Florida 33401
Attention: Director, Regulatory Affairs

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 Exhibits attached hereto, sets forth the full and complete understanding of the parties as of the date of its execution by both parties, 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.

9.5 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

PENINSULA PIPELINE COMPANY, INC.
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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.

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

9.7 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.

9.8 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.

9.9 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.

9.10 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

PENINSULA PIPELINE COMPANY, INC.
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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 from performing hereunder, then neither party shall have any obligation to the other during the period that performance under the Agreement is precluded.

9.11 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.

9.12 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 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 effective as of the date first written above.

COMPANY
Peninsula Pipeline Company, Inc.
By: _____
Title: _____

SHIPPER
Florida Public Utilities Company
By: _____
Title: _____

(To be attested by the corporate secretary if not signed by an officer of the company)

Attested By: _____
Title: _____
Date: _____

Attested By: _____
Title: _____
Date: _____

PENINSULA PIPELINE COMPANY, INC.
FIRM TRANSPORTATION SERVICE AGREEMENT

EXHIBIT A

TO

FIRM TRANSPORTATION SERVICE AGREEMENT

BETWEEN

PENINSULA PIPELINE COMPANY, INC.

AND

FLORIDA PUBLIC UTILITIES COMPANY

DATED

_____, 20__

<u>Description of Delivery Point(s)</u>	<u>Description of Point(s) of Delivery</u>	<u>MDTQ, in Dekatherms, excluding Fuel Retention</u>
Interconnection With Southern Natural Gas Company	See Below	██████████

Total MDTQ (Dekatherms): ██████████

MHTP: 6 %

Fuel Retention Percentage: ██████

Monthly Reservation Charge: ██████ / Month. The rate shall remain at this level for the first ten (10) years of the Agreement. Beginning in Year 11 of the Agreement, this rate shall be adjusted annually by the inflation rate, as calculated based upon the difference between the Department of Labor CPI-U Index that is current as of Day 1 of Year 11, as compared with the CPI-U applicable to the prior period. Thereafter, the rate shall reflect an annual adjustment for inflation consistent with this methodology, whereby the calculation shall be based upon the comparison between the current CPI-U and the CPI-U for the prior period.

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

Description of Point(s) of Delivery: Up to six (6) Points of Delivery

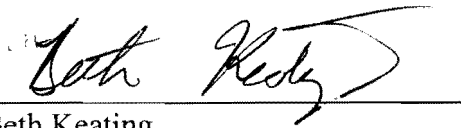
PENINSULA PIPELINE COMPANY, INC.
FIRM TRANSPORTATION SERVICE AGREEMENT

- 1) One or more points – location TBD – in or near the City of Callahan
- 2) One or more points – location TBD – in or near Yulee
- 3) One or more points – location TBD – in or near the City of Fernandina Beach

CERTIFICATE OF SERVICE

I HEREBY ATTEST that a true and correct copy of the foregoing Request has been served upon the following by U.S. Mail this 19th Day of September, 2011:

Office of the Public Counsel c/o The Florida Legislature 111 West Madison St., Rm. 812 Tallahassee, FL 32399-1400	



Beth Keating
Gunster, Yoakley & Stewart, P.A.
215 South Monroe St., Suite 618
Tallahassee, FL 32301
(850) 521-1706