

State of Florida



Public Service Commission

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

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

DATE: December 23, 2013

TO: Office of Commission Clerk (Stauffer)

FROM: Division of Accounting and Finance (Trueblood, Fletcher, Maurey) *FT B's ALM*
Office of the General Counsel (Klancke) *CSB* *CSB* *(n)*

RE: Docket No. 130273-GU – Petition for approval to extend environmental surcharge by Florida Division of Chesapeake Utilities Corporation.

AGENDA: 01/07/14 – Regular Agenda – Proposed Agency Action - Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Administrative

CRITICAL DATES: None

SPECIAL INSTRUCTIONS: None

Case Background

The Florida Division of Chesapeake Utilities Corporation (Chesapeake or Company) is a natural gas utility and its principal offices are located in West Palm Beach, Florida. The Company also owns property in Winter Haven, Florida that is located on the former site of a manufactured gas plant (MGP).

In 1990, Chesapeake executed a Consent Order with the Department of Environmental Protection (DEP) that required the Company to remediate all environmental impacts associated with the former MGP. On May 19, 2001, the DEP approved the Company's proposal to implement air spurge/soil vapor extraction as a remedy for addressing the contaminants present in areas of the site. In 2008, the Company performed excavation and removal of petroleum-tainted soil. On June 10, 2009, Polk County notified the Company that additional sampling had to be performed to complete the remediation monitoring requirements.

In its 2009 rate case,¹ the Company addressed the increasing costs for remediation of the site and sought Commission approval of a surcharge to allow Chesapeake to recover its environmental costs associated with the project. On January 14, 2010, the Commission approved a four-year fixed surcharge of \$0.62 on a typical residential customer's monthly bill.

On November 15, 2013, the Company filed a petition with the Commission seeking approval to extend the Environmental Surcharge² that was approved by the Commission in its last rate case. The Company also filed witness testimony of Michelle Napier in support of its request.

This recommendation addresses Chesapeake's petition for approval to extend the Environmental Surcharge. The Commission has jurisdiction pursuant to Sections 366.041, 366.07, and 366.071, Florida Statutes (F.S.)

¹See Order No. PSC-10-0029-PAA-GU, issued January 14, 2010, in Docket No. 090125-GU, In re: Petition for increase in rates by Florida Division of Chesapeake Utilities Corporation.

²The Environmental Surcharge was initially established by Order No. PSC-00-2263-FOF-GU, issued November 28, 2000, in Docket No. 000108-GU, In re: Petition for increase in rates by Florida Division of Chesapeake Utilities Corporation.

Discussion of Issues

Issue 1: Should the Commission approve a 20-month extension of the Environmental Surcharge to recover the additional costs related to remediation activities of the Company's former manufactured gas plant (MGP) site in Winter Haven, Florida?

Recommendation: Yes. The Commission should approved a 20-month extension of the Environmental Surcharge to allow the Company to recover a net amount of \$380,781 related to remediation activities of the Company's former MGP site in Winter Haven, Florida. In addition, any over/under-recovery should be included in the Company's true-up at the conclusion of the extended period. The 20-month extension should commence January 1, 2014 and remain in place through August 31, 2015. Staff also recommends that this matter be addressed in Chesapeake's next rate case if one is filed before the surcharge period expires. (Trueblood)

Staff Analysis: The Company stated in its petition that it is the owner of the site of a former MGP in Winter Haven, Florida, which was in operation from 1928 until 1953. While in operation, by-products from the MGP released contaminants. The Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), 42 U.S.C.S. § 9601 et seq., was enacted in 1980 and imposed liability on former and current owners, holding them responsible for remediation. Florida enacted legislation³ similar to CERCLA in 1983 and the Commission asked Florida natural gas utilities for information on former MGP sites. Chesapeake provided the requested information which was subsequently forwarded to the DEP. Chesapeake executed a Consent Order with DEP requiring the Company to remediate all environmental impacts associated with the former MGP.

Chesapeake began remediation at the former MGP site on May 19, 2001, after the DEP approved the Company's proposal to implement air spurge/soil vapor extraction (AS/SVE) as a remedy for addressing the contaminants present in areas of the site. AS/SVE is a form of *in situ* remedy⁴ that provides for all soil and groundwater remediation "in ground" by introduction of forced air into the groundwater and extraction of vapors from the overlying soils. In 2008, the Company performed excavation and removal of petroleum-tainted soil. On June 10, 2009, Polk County required Chesapeake to perform additional sampling to complete the remediation monitoring requirements.

The Commission approved a temporary environmental surcharge in Chesapeake's 2009 rate case⁵ to allow the Company to recover \$956,257 over a four year period, which amounted to a fixed charge of \$0.62 on a typical residential customer's monthly bill. Chesapeake requested a fixed surcharge to provide greater certainty of the associated revenues because the Company believed that method would result in minimal true-up at the end of the period.

³ Provisions of Chapters 376 and 403, F.S.

⁴ In situ can refer to where a cleanup or remediation of a contaminated site is performed using and simulating the natural processes in the soil.

⁵ See Order No. PSC-10-0029-PAA-GU, issued January 14, 2010, in Docket No. 090125-GU, In re: Petition for increase in rates by Florida Division of Chesapeake Utilities Corporation.

In the instant proceeding, Chesapeake requests a 20-month extension of the temporary Environmental Surcharge to collect an additional \$380,781 based on projected remediation costs related to the environmental cleanup of the former MGP in Winter Haven, Florida net of its current over-collection. The Company has an over-recovery of \$62,219 for the four-year period ending December 2013, which results in a net projected amount to be recovered of \$380,781 (\$443,000 - \$62,219).

In support of the extension, FPUC witness Napier stated that on August 7, 2012, DEP informed the Company of the need to further evaluate remedial options that could include risk management options and institutional and engineering controls. Chesapeake submitted a response letter to DEP on May 7, 2013, and provided the most recent groundwater monitoring report on June 17, 2013. On September 16, 2013, the Company received a comment letter from DEP. Chesapeake is currently addressing the additional remedial actions that the Company may be required to perform and the associated future remediation costs. If modifications are made to the existing consent order and the existing remedial action plan, additional costs will be incurred. Witness Napier asserted that, based on projections from the environmental consultant, Chesapeake has estimated the future remediation costs related to modifications of the existing consent order and remedial action plan to be \$443,000. The \$443,000 amount includes \$100,000 for implementation of additional actions, such as institutional controls at the site.

The current treatment system for the Winter Haven site does not address impacted soils in the southwest corner of the site, and the Company is reevaluating alternatives to the soil excavation plan approved by DEP in 2010 because the costs associated with shoreline stabilization and dewatering are likely to be substantial. DEP has also indicated that Chesapeake may be required to remediate sediments along the shore of Lake Shipp, which is west of the site. Based on studies performed to date, the Company objects to DEP's suggestion that the sediments have been adversely impacted by the former operations of the MGP and early estimates indicate that some of the corrective measures could cost \$1.0 million. Chesapeake believes corrective measures for the sediments are not warranted, and the Company intends to oppose any requirement for corrective measures of offshore sediments. Since the final resolution of the sediment remediation is uncertain, Chesapeake has not recorded it as a liability at this time, and has not included projected costs associated with sediment remediation in the true-up calculation of this petition.

As noted earlier, the current Environmental Surcharge was intended to allow for the recovery of \$956,257 through the end of December 2013. Although the Company is projected to have an over-recovery when the current surcharge expires, Chesapeake expects to incur additional remediation costs totaling \$443,000 as a result of modifications of the existing consent order. Table 1-1 below shows the amounts collected and cost incurred through December 31, 2013.

Table 1-1

Summary of Amounts Collected Through Rates and Cost incurred for the Remediation of the Manufactured Gas Plant Site			
Date	Amounts Collected	Costs Incurred	Over (Under) Collected
Beginning bal. @ 12/31/1999			\$504,710
12/31/2000	\$71,114	\$17,443	\$558,381
12/31/2001	\$71,114	\$106,773	\$522,722
12/31/2002	\$71,114	\$318,663	\$275,173
12/31/2003	\$71,114	\$137,185	\$209,102
12/31/2004	\$71,114	\$97,782	\$182,434
12/31/2005	\$71,114	\$96,117	\$157,431
12/31/2006	\$71,114	\$138,671	\$89,874
12/31/2007	\$71,114	\$176,438	(\$15,450)
12/31/2008	\$71,114	\$323,921	(\$268,257)
12/31/2009	\$71,114	\$157,020	(\$354,163)
12/31/2010	\$227,646	\$173,263	(\$229,780)
12/31/2011	\$237,578	\$103,494	(\$165,696)
12/31/2012	\$243,074	\$84,782	(\$7,404)
12/31/2013	\$239,064	\$169,441	\$62,219
12/31/2014	\$239,064	\$443,000	(\$141,717)
8/31/2015	\$141,717	\$0	\$0

Witness Napier asserted that the Company has not calculated revised surcharge factors to recover the additional remediation costs. Instead, Chesapeake would like to extend the current surcharge until full recovery is received. Witness Napier pointed out the net amount of \$380,781 will be recovered in 20 months if the Company is allowed to continue collecting the existing surcharge through August 31, 2015. The Company believes an extension of the current surcharge will avoid any customer confusion that may arise if the surcharge was removed and subsequently reinstated to recover the additional projected costs. If the extension of the surcharge is approved effective January 1, 2014 through August 31, 2015, a typical residential customer monthly bill will continue to reflect the \$0.62 charge through the end of the proposed period.

Table 1-2 below shows how the monthly fixed surcharge would be applied to each of the applicable rate classes during the extended period.

Table 1-2

Rate Schedule for Temporary Environmental Surcharge	
Rate Schedule	Fixed Surcharge Amount
FTS-A	\$0.37
FTS-B	\$0.49
FTS-1	\$0.62
FTS-2	\$1.04
FTS-2.1	\$1.86
FTS-3	\$3.44
FTS-3.1	\$5.58
FTS-4	\$9.55
FTS-5	\$17.47
FTS-6	\$28.85
FTS-7	\$45.48
FTS-8	\$79.51
FTS-9	\$127.43
FTS-10	\$186.61
FTS-11	\$332.54
FTS-12	\$598.88

Staff believes an extension of the current surcharge is an appropriate method to recoup the additional remediation costs associated with the environmental cleanup of the former MGP site. It will allow Chesapeake to remove these environmental costs from the books and recover them in a timely manner. Therefore, staff recommends that the Commission approve the extension of the surcharge to allow the Company to recover the additional remediation costs over the 20-month period, commencing January 1, 2014 and remaining in place through August 31, 2015. A typical residential customer will continue to pay the \$0.62 charge on their monthly bill for the extended 20-month period.

Based on the above, staff recommends the recovery of \$443,000, less the \$62,219 amount of projected over-recovery as of December 31, 2013, which results in a net recovery of \$380,781 during the proposed extended period. Staff further recommends that any over/under-recovery be included in the Company's true-up at the conclusion of the 20-month period. Staff also recommends that this matter be addressed in Chesapeake's next rate case if one is filed before the surcharge period expires.

Docket No. 130273-GU
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Issue 2: Should this docket be closed?

Recommendation: If no person whose substantial interests are affected by the proposed agency action files a protest within 21 days of the issuance of the order, this docket should be closed upon the issuance of a consummating order. (Klancke)

Staff Analysis: At the conclusion of the protest period, if no protest is filed this docket should be closed upon the issuance of a consummating order.