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State of Florida



# Public Service Commission

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

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**DATE:** March 24, 2016

**TO:** Office of Commission Clerk (Stauffer)

**FROM:** Division of Economics (Rome, Guffey) *MR SKG*  
Office of the General Counsel (Barrera) *ED*  
*PA*  
*JCM*

**RE:** Docket No. 160028-GU – Petition for approval of Amendment No. 1 to transportation service agreement with the City of Lake Worth, by Florida Public Utilities Company.

**AGENDA:** 04/05/16 – Regular Agenda – Proposed Agency Action – Interested Persons May Participate

**COMMISSIONERS ASSIGNED:** All Commissioners

**PREHEARING OFFICER:** Graham

**CRITICAL DATES:** None

**SPECIAL INSTRUCTIONS:** None

## Case Background

On February 2, 2016, Florida Public Utilities Company (FPUC) filed a petition to amend its gas transportation service agreement (agreement) with the City of Lake Worth (City). FPUC is a gas utility subject to the regulatory jurisdiction of the Commission pursuant to Section 366.06, Florida Statutes (F.S.). The City is a Florida municipality that is developing a compressed natural gas (CNG) station.

The Commission approved the agreement between FPUC and the City in 2003 for a 30-year term.<sup>1</sup> The proposed amendment to the agreement is limited in nature and consists solely of a

<sup>1</sup> Order No. PSC-03-0846-PAA-GU, issued July 21, 2003, in Docket No. 030363-GU, *In re: Joint petition for approval of gas transportation agreement between Florida Public Utilities Company and City of Lake Worth, and request for expedited treatment.*

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modification to Section 4.8 of the agreement to allow the City to resell natural gas provided by FPUC to the City's CNG station for compression and resale as CNG fuel. The proposed amendment is shown in Attachment A.

During its evaluation of the petition, staff issued a data request to FPUC for which a response was received on February 18, 2016. The Office of Public Counsel requested interested party status in the docket on February 9, 2016. The Commission has jurisdiction over this matter pursuant to Section 366.06, F.S.

## Discussion of Issues

**Issue 1:** Should the Commission approve the amendment to the agreement between FPUC and the City?

**Recommendation:** Yes. The Commission should approve the amendment to the agreement between FPUC and the City. (Rome, Guffey)

**Staff Analysis:** In accordance with the agreement, FPUC is obligated to transport gas through its pipeline and appurtenant facilities (Lake Worth Lateral or LW Lateral) from the gate station interconnected with Florida Gas Transmission's facilities to the City's generation and water utility complex (project site). The proposed amendment reflects a modification to a limitation in the agreement. As currently written, Section 4.8 of the agreement prohibits the resale of gas transported through the LW Lateral:

4.8 Resale Prohibited. Natural gas transported through the LW Lateral shall be used solely at the Project Site by CITY or the other Project Parties, and shall not be offered for resale to any third party.

However, the City is developing a CNG station at the project site and will require deliveries of natural gas to that station for compression and subsequent resale to the public. FPUC and the City have reached agreement to eliminate the resale prohibition as applicable to natural gas supplied by FPUC for delivery to the City's CNG station. The revised Section 4.8 as shown in Attachment A would allow resale by the City only to customers of the CNG station.

### Cost of Service Considerations

The proposed amendment would not alter either the term or the pricing under the agreement. In the joint petition filed in 2003 by FPUC and the City, the parties provided a cost of service study as Exhibit A to the joint petition. The transportation charge derived from the cost of service study is paid monthly by the City to FPUC and was designed to enable FPUC to recover its investment in the LW Lateral, provide a rate of return on that investment, and recover the costs of operating and maintaining the facilities. In addition, the City pays FPUC the actual delivered cost plus 25 percent for the cost of odorant for the LW Lateral. Based on analysis of the cost of service study and a requirement that the City provide a letter of credit under specified contingent circumstances, the Commission approved the agreement between FPUC and the City.<sup>2</sup>

In the instant petition, FPUC states that as amended, FPUC will continue to recover its cost to serve under the agreement. In response to staff inquiries, FPUC provided information to indicate that approval of the proposed amendment would have a de minimis impact on the cost of service. First, Section 3.2 of the agreement allows the City to transport up to 4,070 thousand cubic feet (MCF) per hour through the LW Lateral.<sup>3</sup> At present, the City is transporting approximately 75 MCF per hour. In response to a staff inquiry, FPUC estimated that it would be necessary to transport an additional 80 MCF per hour to meet the needs of the CNG station at the project site.

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<sup>2</sup> Id., pp. 3-4.

<sup>3</sup> 1 MCF equals 1 million British thermal units (Btu).

Therefore, through the transportation charge paid by the City each month to FPUC, the City has been paying, and will continue to pay, for a significant amount of unused capacity.

Secondly, the cost of service study provided as Exhibit A to the 2003 joint petition indicated a 2003 net plant value of \$4,195,556 for FPUC's LW Lateral facilities. This amount was one of the factors used to develop the transportation charge payable by the City to FPUC. In response to a staff inquiry, FPUC estimated that the cost of adding additional facilities (tap, meter, and regulator) to serve the CNG station should not exceed \$30,000. This amount is approximately one percent of the 2016 remaining net plant value of the LW Lateral facilities used in the development of the transportation charges payable to FPUC under the current agreement.<sup>4</sup> As such, staff believes that the costs of adding the additional facilities to serve the CNG station would have a de minimis impact on FPUC's cost of service under the agreement.

Based on the foregoing, staff believes FPUC's assertion that it will continue to recover its cost to serve under the proposed amended agreement is reasonable and that FPUC's ratepayers will continue to benefit. The City would benefit from the proposed amendment by having additional quantities of gas available to compress and sell to customers at its CNG station.

### **Conclusion**

FPUC represents that the agreement, as amended, is to the benefit of both the City and FPUC, and is in the public interest. Based on its review, staff believes FPUC's representation to be reasonable and recommends that the Commission approve the amendment to the agreement between FPUC and the City.

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<sup>4</sup> Cost of service study included as Exhibit A to the joint petition filed in Docket No. 030363-GU.

**Issue 2:** Should this docket be closed?

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

**Staff Analysis:** If no protest is filed by a person whose substantial interests are affected within 21 days of the issuance of the Order, this docket should be closed upon the issuance of a Consummating Order.

**AMENDMENT NO. 1**  
**TO**  
**GAS TRANSPORTATION AGREEMENT**

**THIS AMENDMENT NO. 1 TO GAS TRANSPORTATION AGREEMENT** (this "Amendment") is made and entered into this   th day of           , 2016, by and between Florida Public Utilities Companies ("FPUC"), a wholly owned subsidiary of Chesapeake Utilities Corporation, a Delaware corporation, and the City of Lake Worth, Florida ("City"), a political division of the State of Florida created pursuant to s. 2 or s. 6, Art. VIII of the State Constitution, both FPUC and City together being jointly referred to herein as "Parties".

**WITNESSETH:**

**WHEREAS**, the FPUC operates facilities for the distribution of natural gas in the State of Florida and currently provides natural gas transportation service to the City pursuant to the Gas Transportation Agreement entered into on March 31, 2003, ("GTA"), which was approved by the Florida Public Service Commission in Docket No. 030363-GU; and

**WHEREAS**, as set forth in Article 4.8 of the GTA, the GTA specifically and without exception prohibits the resale of natural gas transported through the LW Lateral, as that term is defined in the GTA; and

**WHEREAS**, the City desires to be able to own and operate a Compressed Natural Gas ("CNG") station and further desires that FPUC supply the natural gas for compression and resale through the City's CNG station; and

**WHEREAS**, FPUC is willing to modify the provisions of the GTA to allow the City to resell natural gas supplied by FPUC in this situation;

**NOW, THEREFORE**, in consideration of the premises and mutual covenants and agreements herein contained, the parties agree as follows:

1. Section 4.8 of the GTA, is deleted in its entirety, and the following shall be inserted in lieu thereof:

4.8 Resale Limitations. Natural gas transported through the LW Lateral shall be solely used at: 1) the Project Site; or 2) the CITY's CNG station located within reasonable proximity to the LW Lateral. FPUC shall provide the necessary facilities (tap, main, meter; etc.) to provide service to the CITY's CNG station in accordance with the existing extension of distribution facilities tariff requirements. CITY shall have the right to resell the gas to customers of the CNG station. CITY shall not offer

to resell natural gas transported through the LW Lateral, other than to customers of the CNG station, to any third party.

2. In all other respects, the GTA shall remain unchanged and in full force and effect, except as expressly amended by this Amendment No. 1.

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

4. FPUC shall submit this Amendment No. 1 to the GTA for review and approval by the Florida Public Service Commission within ten (10) days of execution.

5. This Amendment 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.

*[SIGNATURES ON NEXT PAGE]*

IN WITNESS WHEREOF, the parties have executed this Amendment No. 1 to the Gas Transportation Agreement on the dates stated below.

CITY OF LAKE WORTH

Witnesses:

BY: \_\_\_\_\_  
Pam Triolo, Mayor

\_\_\_\_\_  
Print Name

DATE: \_\_\_\_\_, 2016

Attest:

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Pamela Lopez, City Clerk

FLORIDA PUBLIC UTILITIES COMPANY

BY: \_\_\_\_\_

TITLE: \_\_\_\_\_

Witnesses:

DATE: \_\_\_\_\_, 2016

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Print Name