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November 30, 2021

**BY E-PORTAL**

Mr. Adam Teitzman, Clerk  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, FL 32399-0850

**Re:[New Docket]- In re: Joint Petition of Florida Public Utilities Company and Florida Division of Chesapeake Utilities Corporation for Variance from certain MFR requirements of Rule 25-7.039, Florida Administrative Code.**

Dear Mr. Teitzman:

Attached for electronic filing, please find the Joint Petition of Florida Public Utilities Company and Florida Division of Chesapeake Utilities Corporation for Variance from certain MFR requirements of Rule 25-7.039, Florida Administrative Code.

As always, thank you for your assistance in connection with this filing. If you have any questions whatsoever, please do not hesitate to let me know.

Sincerely,



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

Cc:// Office of Public Counsel (Christensen)

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Joint Petition of Florida Public Utilities Company and Florida Division of Chesapeake Utilities Corporation for Variance from certain MFR requirements of Rule 25-7.039, Florida Administrative Code.

Docket No.

Filed: November 30 , 2021

**Petition for Variance from Rule 25-7.039(1), Florida Administrative Code**

Florida Public Utilities Company (“FPUC”) and the Florida Division of Chesapeake Utilities Corporation (“CFG”) (jointly herein “Companies”) by and through their undersigned attorney, and pursuant to Chapter 366, Florida Statutes, Section 120.542, Florida Statutes, and Rule 28-104.002, Florida Administrative Code, hereby petition the Florida Public Service Commission (“Commission”) for approval of a variance from portions of the requirements for Minimum Filing Requirements (“MFRs”) set forth in Rule 25-7.039(1), Florida Administrative Code.

**BACKGROUND**

In support of this Petition, the Companies hereby state:

1. Notices and communications with respect to this petition and docket should be addressed to:

Beth Keating, Esq.  
Gunster, Yoakley & Stewart, P.A.  
215 South Monroe Street, Suite 601  
Tallahassee, Florida 32301-1839  
(850) 521-1706

Mike Cassel  
AVP, Regulatory and Governmental Affairs  
Florida Public Utilities Company/Chesapeake  
208 Wildlight Ave.  
Yulee, FL 32097  
[mcassel@fpuc.com](mailto:mcassel@fpuc.com)

Michelle D. Napier  
Director, Regulatory Affairs Distribution  
Florida Public Utilities Company  
1635 Meathe Drive  
West Palm Beach, Florida 33411  
W: (561) 838-1712  
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Email: [mnapier@fpuc.com](mailto:mnapier@fpuc.com)

FPUC is a natural gas utility subject to the Commission's jurisdiction under Chapter 366, Florida Statutes. Its principal business address is:

Florida Public Utilities Company  
208 Wildlight Avenue  
Yulee, FL 32097

Florida Public Utilities Company – Fort Meade and Florida Public Utilities Company – Indiantown Division are divisions of FPUC with their principal business address being the same as FPUC.

2. CFG is also a natural gas utility subject to the Commission's jurisdiction under Chapter 366, Florida Statutes. Its principal business address is:

Florida Division of Chesapeake Utilities Corporation  
208 Wildlight Avenue  
Yulee, FL 32097

3. FPUC was originally incorporated in 1924. Its official name became Florida Public Utilities Company in 1927. On October 28, 2009, FPU was acquired by Chesapeake Utilities Corporation ("CUC"), a Delaware corporation. CUC also operates the Florida Division of Chesapeake Utilities Corporation, a natural gas utility in Florida, as well as unregulated energy businesses, including propane distribution operations and a propane wholesale marketing subsidiary. With the acquisition of FPUC in 2009, CUC expanded its energy presence throughout the state of Florida. On August 6, 2010, FPUC acquired Indiantown Gas Company ("Indiantown") and with it, approximately 700 additional customers. On June 11, 2013, the City Commission of

the City of Fort Meade voted to sell the City's natural gas system to FPUC. The purchase agreement for the sale of the system to FPUC was approved subsequently by the City at its October 8, 2013, City Commission meeting.

4. CUC began as the Dover Gas Light Company, which was formed in 1859. CUC was later incorporated in the State of Delaware as "Chesapeake Utilities Corporation" in 1947. CUC's Natural Gas Transmission subsidiaries are Eastern Shore Natural Gas Company, regulated by the FERC, and Peninsula Pipeline Company, Inc., regulated by the Florida Commission. CUC's unregulated energy businesses include its propane distribution operations and its propane wholesale marketing subsidiary, as well as Marlin Gas Services, which provides virtual pipeline services. Its corporate headquarters are located at 909 Silver Lake Boulevard, Dover, Delaware 19904.

5. The Companies' request set forth herein does not involve reversal or modification of a Commission decision or proposed agency action. This is a Petition representing an initial request to the Commission, which is the affected agency located at 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399. The Companies' substantial interests will be directly affected by the Commission's decision with regard to the requested rule variance. The Companies are unaware of any disputed facts associated with its request as set forth herein but the proceeding may involve disputed issues of material fact.

6. Rule 25-7.039, titled "Natural Gas Utility Petition for Rate Increase; Commission Designee" provides the instructions and requirements for natural gas local distribution companies ("LDCs") seeking rate relief from the Commission. These requirements include the provision of information on Commission Form PSC 1027 (12/20), entitled "Minimum Filing Requirements for Investor Owned Natural Gas Utilities," which is incorporated into the rule by

reference, and is available at <http://www.flrules.org/Gateway/reference.asp?No=Ref-12643> .

The information required by completion of these MFR schedules entails significant, and detailed, information regarding accounting, engineering, rates, cost of service, cost of capital, and related data that the Commission staff, as well as intervenors, use to analyze requesting LDC's rate request.

7. FPUC's last rate relief request was filed on December 17, 2008.<sup>1</sup> CFG's last petition seeking rate relief was filed July 14, 2009.<sup>2</sup> The last rate case for Florida Public Utilities Company - Indiantown Division occurred well prior to FPUC's acquisition of Indiantown Gas Company in 2003.<sup>3</sup> Prior to its acquisition in 2013 by Florida Public Utilities Company, Fort Meade was a municipally-owned gas utility. The Commission has never conducted a rate case or similar rate review for FPUC's Fort Meade division. In the intervening period since the rate cases that were last conducted, CUC acquired FPUC, as noted herein, and FPUC acquired Indiantown Gas, as well as the Fort Meade system. The records and surveillance reports of FPUC and CFG, as well as those of the Indiantown Division and Fort Meade (to the extent they exist), have been maintained separately.<sup>4</sup> The Companies have, nonetheless, taken several steps over the years to consolidate the processes, methodologies, and tariffs of the FPUC/CFG natural gas business units.<sup>5</sup>

#### **REQUESTED WAIVER/MFR PROPOSAL**

8. FPUC and CFG have begun the planning process for a rate filing in 2022 that would contemplate new, consolidated rates for the natural gas business units to be effective January 1,

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<sup>1</sup> Docket No. 20080336-GU.

<sup>2</sup> Docket No. 20090125-GU.

<sup>3</sup> Docket No. 20030954-GU.

<sup>4</sup> Order No. PSC-2012-0010-PAA-GU, issued January 3, 2012, in Docket No. 20110133-GU, which also denied the Companies' request for approval of a benchmark methodology for evaluation of cost increases for the divisions for purposes of future rate proceedings.

<sup>5</sup> See, for instance, Dockets Nos. 20200214-GU, 20200046-GU, 20190056-GU and 20150117-GU.

2023. For the anticipated, proposed projected test year of 2023, compilation of the necessary information would be based on the full consolidation of Florida Public Utilities Company (Natural Gas Division), the Florida Division of Chesapeake Utilities Corporation, Florida Public Utilities Company-Indiantown Division, and Florida Public Utilities Company-Fort Meade, which is appropriate, as well as manageable, given the structure of the MFR schedules themselves, as well as the intent of the Companies to operate, going-forward, on a fully consolidated basis. The challenge arises in providing comparable, consolidated data for certain MFRs that require a comparison of prior period data or rates to those proposed. This issue is particularly evident in the context of specific A, C, and D Schedules since these schedules provide detail from previous rate cases and the rate cases for each gas business unit occurred (if at all) in different years and resulted in different rate of returns. As such, this data will need to be provided for each existing division with totals where possible on a consolidated basis. Another problematic area is in the context of certain E, F, and G Schedules which require comparisons of proposed new rate data to data supporting current rates, which is an issue because the rate categories for each of the divisions are currently different. Moreover, as it relates to Fort Meade, certain historical information is not readily available or, prior to acquisition, not recorded in a manner consistent with the Uniform System of Accounts (USoA) or Generally Accepted Accounting Principles (GAAP).

9. In addition, the Companies seek to deviate from the benchmarking schedules (C-34 to C-38) because the index used to multiply by the prior historic year expense data by is based on the customer growth and inflation for all the years since the last case.

10. Strict adherence to the MFR requirement of Rule 25-7.039, F.A.C., would not only create a profound burden for the Companies, but would not provide the Commission with the best, most accurate data for its evaluation of the Companies' rate request. As such, the Companies ask

that the Commission grant a variance to allow the Companies to provide the required data in the MFRs consistent with the Companies' proposal set forth in Attachment A, which is attached and incorporated herein by reference.

11. Section 120.542, Florida Statutes, provides that the Commission may grant a variance from its rules "when the person subject to the rule demonstrates that the purpose of the underlying statute will be or has been achieved by other means by the person and when application of a rule would create a substantial hardship or would violate principles of fairness." The Companies respectfully contend that the proposal set forth herein meets that test. Section 366.06, Florida Statutes, the main provision underlying Rule 25-7.039, Florida Administrative Code, contemplates that the Commission will have information available to it that will enable it to evaluate the basis of the utilities' rate request for rate relief and whether the current rates are insufficient to provide reasonable compensation for the Companies' services rendered. The Companies maintain that providing the information required by the specific schedules identified in Attachment A in the specified manner contemplated by Attachment A, will provide the Commission with all of the information contemplated by the MFRs and in the most accurate form possible. The Companies emphasize here that all other MFRs, other than those identified in Attachment A, would be submitted on a consolidated basis and populated consistent with the current schedule requirements, form, and format. Thus, the complete, supporting MFRs submitted by the Companies would contain the information contemplated by the statute to enable the commission, ". . . to the extent practicable, [to] consider the cost of providing service to the class, as well as the rate history, value of service, and experience of the public utility; the consumption

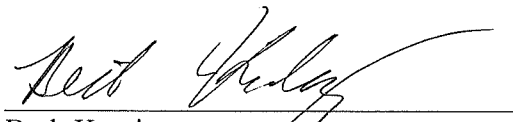
and load characteristics of the various classes of customers; and public acceptance of rate structures.”<sup>6</sup>

12. If this request for a variance is denied, the Companies would be subjected to the significant and undue hardship of forcing the separate entities’ information into the fully consolidated format of the specified MFRs. This burdensome task might also result in inaccurate or skewed data as result of translating the data of four, separate entities into a consolidated format that just does not fit, which could ultimately result in the Companies’ request being unfairly denied as deficient or incomplete simply because the information available does not fit the specific format of the MFRs.

13. Furthermore, the Companies have been authorized to represent that the Office of Public Counsel takes no position on the Companies’ request as set forth herein.

**WHEREFORE**, for the reasons set forth herein, the Companies respectfully request that the Commission grant the Companies’ request for a variance from the MFR requirements of Rule 25-7.039, Florida Administrative Code, to the extent set forth herein and outlined in Attachment A.

RESPECTFULLY SUBMITTED this 30th day of November, 2021.



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215 South Monroe St., Suite 601  
Tallahassee, FL 32301  
(850) 521-1706

*Attorneys for Florida Public Utilities  
Company and Florida Division of  
Chesapeake Utilities Corporation*

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<sup>6</sup> Section 366.06(1), F.S.

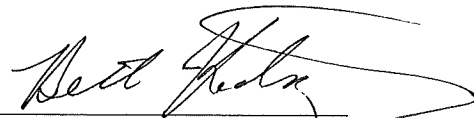


**CERTIFICATE OF SERVICE**

I HEREBY ATTEST that a true and correct copy of the foregoing Request has been served upon the following by U.S. Mail and/or Electronic Mail this 30<sup>th</sup> day of November, 2021:

Richard Gentry, Public Counsel  
Office of Public Counsel  
c/o the Florida Legislature  
111 West Madison Street, Rm 812  
Tallahassee, FL 32399-1400  
Gentry.richard@leg.state.fl.us

Joint Administrative Procedures Committee  
Ken Plante, Coordinator  
680 Pepper Building  
111 W. Madison St.  
Tallahassee FL 32399



Beth Keating, Esq.  
Gunster, Yoakley & Stewart, P.A.  
215 S. Monroe St., Ste 601  
(850) 521-1706

**ATTACHMENT A**

| MFR  | SECTION         | TITLE   | Reason for Variance  |
|------|-----------------|---|--|
| A-1  | Summary         | MAGNITUDE OF CHANGE-PRESENT vs PRIOR RATE CASE        | Since this schedule provides detail from previous rate cases and those rate cases occurred at different years and have different rate of returns, this data will need to be provided for each existing division with totals where possible on a consolidated basis.                              |
| A-2  | Summary         | ANALYSIS OF PERMANENT RATE INCREASE REQUESTED         | Since this schedule provides detail from previous rate cases and those rate cases occurred at different years and have different rate of returns, this data will need to be provided for each existing division with totals where possible on a consolidated basis.                              |
| A-3  | Summary         | ANALYSIS OF JURISDICTIONAL RATE BASE                  | Since this schedule provides detail from previous rate cases and those rate cases occurred at different years and have different rate of returns, this data will need to be provided for each existing division with totals where possible on a consolidated basis.                              |
| A-4  | Summary         | ANALYSIS OF JURISDICTIONAL N. O. I.                   | Since this schedule provides detail from previous rate cases and those rate cases occurred at different years and have different rate of returns, this data will need to be provided for each existing division with totals where possible on a consolidated basis.                              |
| A-5  | Summary         | OVERALL RATE OF RETURN COMPARISON                     | Since this schedule provides detail from previous rate cases and those rate cases occurred at different years and have different rate of returns, this data will need to be provided for each existing division with totals where possible on a consolidated basis.                              |
| A-6  | Summary         | FINANCIAL INDICATORS                                  | Since this schedule provides detail from previous rate cases and those rate cases occurred at different years and have different rate of returns, this data will need to be provided for each existing division with totals where possible on a consolidated basis.                              |
| C-1  | NOI             | ADJUSTED JURISDICTIONAL NET OPERATING INCOME          | Since this schedule provides detail from previous rate cases and those rate cases occurred at different years, this data will need to be provided for each existing division with totals where possible on a consolidated.   |
| C-13 | NOI             | TOTAL RATE CASE EXPENSE AND COMPARISONS               | This contains information from the prior case and each division had different costs. Therefore, this data will need to be provided for each existing division with totals where possible on a consolidated.  |
| C-34 | NOI             | O & M BENCHMARK COMPARISON BY FUNCTION                | The schedule requires information from the prior case and a multiplier that is different for each division because of the number of years since the last rate case. Therefore, this data will need to be provided for each existing division with totals where possible on a consolidated.       |
| C-37 | NOI             | O & M COMPOUND MULTIPLIER CALCULATION                 | The schedule requires information from the prior case and a multiplier that is different for each division because of the number of years since the last rate case. Therefore, this data will need to be provided for each existing division with totals where possible on a consolidated basis. |
| C-38 | NOI             | O & M BENCHMARK VARIANCE BY FUNCTION                  | The schedule requires justifications for differences on C-34 which requires separate schedules. Therefore, this data will need to be provided for each existing division with totals where possible on a consolidated basis.   |
| D-1a | Cost of Capital | COST OF CAPITAL - 13-MONTH AVERAGE                    | The schedule contains cost rates and weighted costs (columns 4-7) from the last case that were requested and approved which cannot be consolidated. Therefore, this data will need to be provided for each existing division with totals where possible on a consolidated basis.                 |
| D-1b | Cost of Capital | APPLICANT'S AVERAGE COST OF CAPITAL - HISTORICAL DATA | The schedule contains the cost of approved cost rate for equity the test year minus 1 which would be at different rates for each division. Therefore, this data will need to be provided for each existing division with totals where possible on a consolidated basis.                          |

| MFR            | SECTION         | TITLE   | REASON   |
|----------------|-----------------|---|--|
| D-11           | Cost of Capital | FINANCIAL INDICATORS  | The indicators are requested for the historic base year at the current and proposed rates and vary by division. Therefore, this data will need to be provided for each existing division with totals where possible on a consolidated basis. |
| D-12           | Cost of Capital | APPLICANT'S MARKET DATA   | The indicators are requested for the historic base year at the current and proposed rates and vary by division. Therefore, this data will need to be provided for each existing division with totals where possible on a consolidated basis. |
| E-1            | Cost of Service | THERM SALES AND REVENUES BY RATE CLASS - PRESENT RATES AND PAST RATES | Since the present rate structure is different for each division, this schedule will have to have separate filings for each division.   |
| E-2            | Cost of Service | THERM SALES AND REVENUES COMPARISONS                                  | Since the present rate structure is different for each division, this schedule will have to have separate filings for each division.   |
| E-5            | Cost of Service | BILL COMPARISONS PRESENT VS. PROPOSED                                 | Since the present rate structure is different for each division, this schedule will have to have separate filings for each division.   |
| F-1            | Interim         | AVERAGE RATE BASE AND RATE OF RETURN                                  | Since interim rates will be based on the rate structure in the prior rate cases, each schedule will be done by division to arrive at the revenue requirement for that division.  |
| F-2            | Interim         | WORKING CAPITAL   | Since interim rates will be based on the rate structure in the prior rate cases, each schedule will be done by division to arrive at the revenue requirement for that division.  |
| F-3            | Interim         | ADJUSTMENTS TO RATE BASE  | Since interim rates will be based on the rate structure in the prior rate cases, each schedule will be done by division to arrive at the revenue requirement for that division.  |
| F-4            | Interim         | NET OPERATING INCOME  | Since interim rates will be based on the rate structure in the prior rate cases, each schedule will be done by division to arrive at the revenue requirement for that division.  |
| F-5            | Interim         | ADJUSTMENTS TO NET OPERATING INCOME                                   | Since interim rates will be based on the rate structure in the prior rate cases, each schedule will be done by division to arrive at the revenue requirement for that division.  |
| F-5 p. 2       | Interim         | ADJUSTMENTS TO NET OPERATING INCOME (DETAIL)                          | Since interim rates will be based on the rate structure in the prior rate cases, each schedule will be done by division to arrive at the revenue requirement for that division.  |
| F-6            | Interim         | REVENUE EXPANSION FACTOR  | Since interim rates will be based on the rate structure in the prior rate cases, each schedule will be done by division to arrive at the revenue requirement for that division.  |
| F-7            | Interim         | REVENUE DEFICIENCY  | Since interim rates will be based on the rate structure in the prior rate cases, each schedule will be done by division to arrive at the revenue requirement for that division.  |
| F-8            | Interim         | AVERAGE COST OF CAPITAL   | Since interim rates will be based on the rate structure in the prior rate cases, each schedule will be done by division to arrive at the revenue requirement for that division.  |
| F-9            | Interim         | RECONCILIATION OF RATE BASE TO CAPITAL STRUCTURE                      | Since interim rates will be based on the rate structure in the prior rate cases, each schedule will be done by division to arrive at the revenue requirement for that division.  |
| F-10           | Interim         | ALLOCATION OF INTERIM RATE RELIEF                                     | Since interim rates will be based on the rate structure in the prior rate cases, each schedule will be done by division to arrive at the revenue requirement for that division.  |
| G2-6 AND G2- 7 | Projected NOI   | OPERATING REVENUES  | These schedules require information for the current rate class and the proposed. Since the historic Test Year used different rate classes by division, these schedules will be provided separately.  |

| MFR                         | SECTION       | TITLE  | REASON   |
|-----------------------------|---------------|--|--|
| G2-8, G2-9, F2-10 AND G2-11 | Projected NOI | OPERATING REVENUES   | These schedules require both current and proposed rate class information. Since the current rate class information is different for each division, this information will be provided separately for the current and separate and consolidated for the present. |
| G3-9, G3-10, and G3-11      | Projected NOI | FINANCIAL INDICATORS -<br>CALCULATION OF INTEREST AND<br>PREFERRED DIVIDEND COVERAGE<br>RATIOS | These schedules require both current and proposed rate information. Since the current rate information is different for each division, this information will be provided separately for the current and separate and consolidated for the present.             |