

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: June 28, 2023

TO: Office of Commission Clerk (Teitzman)

FROM: Division of Economics (Guffey) *JGH*
Office of the General Counsel (Dose) *JSC*

RE: Docket No. 20230063-GU – Petition for approval of transportation service agreement with Florida Public Utilities Company by Peninsula Pipeline Company, Inc.

AGENDA: 07/11/23 – 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 April 24, 2023, Peninsula Pipeline Company, Inc. (Peninsula) filed a petition seeking approval of a Firm Transportation Service Agreement (Agreement) between Peninsula and Florida Public Utilities Company (FPUC), collectively the parties. The purpose of the Agreement is to allow FPUC to provide natural gas service to existing and future residential, commercial, and industrial customers in and near the City of Newberry (Newberry or the City) in Alachua County. Newberry currently does not provide natural gas service but customers have the option to use propane as a secondary fuel source provided by propane distributors.

Peninsula operates as an intrastate natural gas transmission company as defined by Section 368.103(4), Florida Statutes (F.S.).¹ FPUC is a local distribution company (LDC) subject to the regulatory jurisdiction of the Commission pursuant to Chapter 366, F.S.

By Order No. PSC-07-1012-TRF-GP,² Peninsula received approval of an intrastate gas pipeline tariff that allows it to construct and operate intrastate pipeline facilities and to actively pursue agreements with natural gas customers. Peninsula provides gas transportation service only; it does not engage in the sale of natural gas. Pursuant to Order No. PSC-07-1012-TRF-GP, Peninsula is allowed to enter into certain gas transmission agreements without prior Commission approval.³ However, Peninsula is requesting Commission approval of this proposed Agreement as it does not fit any of the criteria enumerated in the tariff for which Commission approval would not be required.⁴ The parties are subsidiaries of Chesapeake Utility Corporation, a Delaware corporation authorized to conduct business in Florida, and agreements between affiliated companies must be approved by the Commission pursuant to Section 368.105, F.S., and Order No. PSC-07-1012-TRF-GP.

Pursuant to the proposed Agreement and project map (Attachments A and B to this recommendation), Peninsula will construct, own, and operate a new natural gas pipeline and update an existing gate station located in Trenton, which will be an interconnect with Florida Gas Transmission Company's (FGT) interstate pipeline system. During the evaluation of the petition, FPUC and staff had an informal meeting on April 18, 2023, and staff issued two data requests to the parties for which responses were received on May 17, 2023 and on June 13, 2023. The Commission has jurisdiction over this matter pursuant to Sections 366.05(1), 366.06, and 368.105, F.S.

¹ Order No. PSC-06-0023-DS-GP, issued 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, F.S., et seq.*

² Order No. PSC-07-1012-TRF-GP, issued December 21, 2007, in Docket No. 070570-GP, *In re: Petition for approval of natural gas transmission pipeline tariff by Peninsula Pipeline Company, Inc.*

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

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

Discussion of Issues

Issue 1: Should the Commission approve the proposed Firm Transportation Service Agreement dated April 5, 2023, between Peninsula and FPUC?

Recommendation: Yes, the Commission should approve the proposed Firm Transportation Service Agreement dated April 5, 2023, between Peninsula and FPUC. The proposed Agreement is reasonable and meets the requirements of Section 368.105, F.S. Furthermore, the proposed Agreement benefits FPUC's current and potential future customers by interconnecting to FGT's less constrained West Leg allowing FPUC to provide natural gas service in and around the City of Newberry in Alachua County. (Guffey)

Staff Analysis:

Proposed Transportation Service Agreement

The City of Newberry currently does not provide natural gas service but customers who desire to use gas have the ability to purchase propane as their secondary fuel source. Propane suppliers are unregulated by the Commission. FPUC believes that once the natural gas distribution system in the City is completed and service becomes available, some propane customers may opt for natural gas as it is a cheaper fuel.

FPUC explained that Newberry is experiencing increased development in residential, commercial, and light industrial sectors. FPUC further stated that the City has indicated a high interest in obtaining reliable and reasonable natural gas service and FPUC has obtained several letters of interest from home builders and other businesses. The proposed Agreement will also support the City's economic development plan which emphasizes the development of commercial and light industrial sectors of its local economy. FPUC indicated it also anticipates interest from a large scale industrial customer who currently uses coal as a fuel source.

In response to the City's interest in bringing natural gas service to the area, the parties have entered into the proposed Agreement to enable FPUC to expand its distribution system. FPUC stated that it has a franchise agreement in the City for natural gas service. The Company asserts that the proposed project and Agreement with Peninsula to extend natural gas service to Newberry and its vicinity is the most economical approach to meet the area's customer demand.⁵

The proposed Agreement specifies an initial term of 20 years and thereafter shall be extended on a year-to-year basis, with no changes in the terms of the Agreement, unless either party gives no less than 90 days of written notification of termination. If either party desires to negotiate modifications to the rates or terms of this Agreement, they may do so no less than 120 days prior to expiration of the current active term.

Proposed Newberry Project

Attachment B to this recommendation shows the proposed Newberry gas distribution expansion project. Peninsula stated that it would begin by updating an existing gate station interconnection with the West Leg of FGT located off of SR 26 in Trenton, in Gilchrist County. FPUC explained

⁵ Response No. 3 in Staff's Second Data Request, Document No. 03625-2023.

that the West Leg is unconstrained, meaning that FGT has transportation capacity available. As shown by the red line, starting at the existing gate station interconnection with FGT, Peninsula would construct approximately 93,300 feet (17.67 miles) of 4-inch steel pipeline traveling east along SR 26 and ending at a newly constructed metering and regulation (M&R) station located off US Highway 41, which Peninsula would also construct. The completion of these projects will enable FPUC-owned gas to be transported to Newberry. In response to staff's first data request, Peninsula stated that it anticipates to begin construction in the second quarter of 2024 while the completion would depend on contractor resources and coordination with the City.⁶

Anticipated System Benefits

The parties stated that the proposed Agreement has the added benefit of providing FPUC with an additional source of gas (via the Peninsula intrastate pipeline) and enhancing an existing interconnection with the FGT pipeline.

The parties assert that the proposed project will enable FPUC, having a franchise agreement with the City, to serve residential, commercial, and industrial customers in the City and its vicinity who currently do not have natural gas service. The parties further assert that construction of the pipeline will allow the current and future customers in the area to obtain less expensive natural gas (as opposed to propane) as their energy source. FPUC stated that the proposed project would allow them to transfer 200 residential propane customers to natural gas in the first year of operation. The petition also states that the proposed project will support the City's economic development plan with emphasis on commercial and light industrial segments of its economy.

The parties assert that Central Alachua County is currently served by FGT's East Leg, which is constrained. The proposed pipeline project interconnecting to FGT's unconstrained West Leg will have the added benefit of incremental supply to natural gas facilities in Central Alachua County supplied by the East Leg.

In response to staff's first data request, the parties stated that FPUC did not obtain formal Request for Proposals responses from other entities.⁷ FPUC explained that in previous discussions and requests with FGT for other projects, FGT has declined to bid on projects related to construction, owning, and operating laterals such as the proposed expansion project in this petition, which are not a focus of FGT's expansion activities.

FPUC explained that the proposed Newberry project is larger than what FPUC would typically undertake on its own. Due to various tariff requirements, if FPUC undertook the project, the project costs would unduly burden the City and its customers seeking natural gas service. Therefore, FPUC contracted with Peninsula to undertake the proposed Newberry project as it falls within its pipeline operation portfolio. As such, Peninsula will construct, own, and operate the 17.67 mile interconnect with FGT, which would protect the general body of ratepayers from potential unforeseen construction price increases or other related challenges.⁸ Upon the completion of Peninsula's portion of the pipeline construction, FPUC will begin development of its gas distribution system in the City.

⁶ Response No. 2 in Staff's First Data Request, Document No. 03271-2023.

⁷ Response No. 5 in Staff's First Data Request, Document No. 03271-2023.

⁸ Response No. 2 in Staff's Second Data Request, Document No. 03625-2023.

Date: June 28, 2023

Negotiated Monthly Reservation Payments to Peninsula

The parties assert that the negotiated monthly reservation charge contained in the proposed agreement is consistent with market rates because the rates are substantially the same as rates set forth in similar agreements as required by Section 368.105(3)(b), F.S. The parties assert that Peninsula will recover the pipeline and district regulator construction costs through the monthly reservation charge to FPUC as shown in Exhibit A to the proposed Agreement. The monthly reservation charge is designed to recover costs such as, but not limited to, engineering, permitting, materials, and installation costs associated with pipeline and related facilities, ongoing maintenance including Pipeline and Hazardous Materials Safety Administration compliance, safety requirements, property taxes, gas control, and Peninsula's return on investment.

FPUC stated that it will initially recover its payments to Peninsula through the Purchased Gas Adjustment (PGA) and swing service rider mechanisms.⁹ The PGA allows FPUC to periodically adjust the price of natural gas supplied to its customers to reflect the actual cost of gas purchased and delivered on behalf of the customers. The swing service rider allows FPUC to recover intrastate capacity costs from their transportation customers and is a cents per therm charge that is included in the monthly customer gas bill of transportation customers. While FPUC will incur costs associated with this service expansion, new load added to the system will help spread the costs over a larger customer base. If the actual need for gas does not meet the projected demand, FPUC stated that it will endeavor to sell the excess capacity on Peninsula and those proceeds will be applied to offset PGA costs to the general body of ratepayers.¹⁰

FPUC currently is negotiating with a nearby large industrial customer to provide natural gas service. Payments from this industrial customer will be used to offset the amounts paid to Peninsula by the general body of ratepayers.

Conclusion

Based on the petition and the parties' responses to staff's data requests, staff believes that the proposed Agreement is reasonable and meets the requirements of Section 368.105, F.S. Furthermore, the proposed Agreement benefits FPUC's current and potential future customers by interconnecting to FGT's less constrained West Leg allowing FPUC to provide natural gas service in and around the City of Newberry in Alachua County. Therefore, staff recommends that the Commission should approve the proposed Firm Transportation Service Agreement dated April 5, 2023, between Peninsula and FPUC.

⁹ Response No. 6 in Staff's First Data Request, Document No. 03271-2023.

¹⁰ Response No. 1 in Staff's Second Data Request, Document No. 03625-2023.

Issue 2: Should this docket be closed?

Recommendation: Yes. 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. (Dose)

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.

ATTACHMENT A
Transportation Service Agreement

PENINSULA PIPELINE COMPANY, INC.
FIRM TRANSPORTATION SERVICE AGREEMENT

THIS FIRM TRANSPORTATION SERVICE AGREEMENT (the "Agreement") entered into this 5th day of April, 2023, by and between Peninsula Pipeline Company, Inc., a corporation of the State of Delaware (herein called "Company" or "PPC"), and Florida Public Utilities Company, a corporation of the State of Florida (herein called "Shipper" or "FPUC"). PPC and FPUC are sometimes referred to herein individually as a "Party" and collectively as "Parties."

WITNESSETH

WHEREAS, Shipper desires to obtain Firm Transportation Service ("FTS") from Company; and

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

WHEREAS, Shipper desires Company to construct an intrastate pipeline in Alachua County, Florida, the origin of which will be a modified gate station with Florida Gas Transmission and the terminus of which will be a new point of delivery at or near the intersection of Route 27 and NW 9th Place, allowing for the Shipper's distribution meter to be placed into service (the "Project").

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
DEFINITION

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 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 (per Dekatherm) shall be billed at a rate of 2.0 times the rate to be charged for each Dekatherm of the MDTQ as set forth on Exhibit A of this 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 and shall be charged to Shipper beginning at the notification of in-service by Company (the "In-Service Date"), and shall thereafter be assessed in accordance with the terms and conditions set forth herein.

3.2 Consistent with Section 9.10 of this Agreement, the Parties recognize and acknowledge that certain regulatory and governmental approvals are required for this Agreement and the Project contemplated herein. In the event that Company is not able to obtain all necessary authorizations from all Governmental Authorities within twelve (12) months of the execution of this Agreement, and such delay results in an increase in the costs associated with the Project such that proceeding with the Project would produce an economic detriment to the Company, Company may request the opportunity to negotiate a modification of the rates or terms of this Agreement, and the Parties shall negotiate such modification in good faith. Any such new rate will be implemented, and Exhibit A updated accordingly, on the In-Service Date. Notwithstanding the above, and regardless of when the Company receives all necessary authorizations from Governmental Authorities, if there is a material impact on Project costs related to materials (such as a material change in the construction fee or the cost of steel), ROW, labor or interest rates, the Company may also request the opportunity to negotiate a modification of the rates or terms of this Agreement and the Parties shall negotiate such modification in good faith. If Shipper does not agree to the adjusted Monthly Reservation Charge, Company may unilaterally terminate this Agreement upon ninety (90) days' notice.

3.3 The parties agree to execute and administratively file with the Commission an affidavit, in the form provided in Company's Tariff to comply with the provisions of the Natural Gas Transmission Pipeline Intrastate Regulatory Act.

3.4 If, at any time after the Execution Date (as herein defined) and throughout the term of this Agreement, the Company is required by any Governmental Authority (as that term is defined in Section 9.10) asserting jurisdiction over this Agreement and the transportation of Gas hereunder, to incur additional tax charges (including, without limitation, income taxes and property taxes) with regard to the service provided by Company under this Agreement, then Shipper's Monthly Reservation Charge shall be adjusted and Exhibit A updated accordingly, and the new Monthly Reservation Charge shall be implemented immediately upon the effective date of such action. If Shipper does not agree to the adjusted Monthly Reservation Charge, Company shall no longer be required to continue to provide the service

contemplated in this Agreement should an action of a Governmental Authority result in a situation where Company otherwise would be required to provide transportation service at rates that are not just and reasonable, and in such event the 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 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 (the "Execution Date") and shall continue in full force for an initial period of twenty (20) years from the In-Service Date ("Initial Term"). Thereafter, the Agreement shall be extended on a year to year basis (each a "Renewed Term" and, all Renewed Terms together with the Initial Term, the "Current Term"), unless either Party gives written notice of termination to the other Party, not less than (90) days prior to the expiration of the Current Term. This Agreement may only be terminated earlier in accordance with the provisions of this Agreement and the Parties' respective rights under applicable law.

4.2 No less than 120 days before expiration of the Current Term, either Party may request the opportunity to negotiate a modification of the rates or terms of this Agreement to be effective with the subsequent Renewed Term. Neither Party is obligated to, but may, agree to any mutually acceptable modification to the Agreement for the subsequent Renewed Term. In the event the Parties reach agreement for a modification to the Agreement for the subsequent Renewed Term, such agreed upon modification shall be set forth in writing and signed by both Parties prior to the expiration of the Current Term.

4.3 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.

4.4 In the event Shipper fails to pay for the service provided under this Agreement or otherwise fails to meet Company's standards for creditworthiness set forth in Section C of the Rules and Regulations of the Company's Tariff or 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.

4.5 If, during the Current Term of the Agreement, a new customer with usage of 1,000 Dekatherms per day or greater takes service from the Company on the pipeline system serving the Shipper's facility, the Company and Shipper shall renegotiate a reduction in the Monthly Reservation Charge as set forth on Exhibit A. In such event,

the Shipper shall also have the first option, but not the obligation, to release the amount of capacity needed to serve the new customer at the presiding monthly charge as set forth in Exhibit A.

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 ("Company's Tariff"), 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.

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), nor shall Company have any obligation to obtain capacity on Transporter for Shipper or on Shipper's behalf. The 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 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 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 Gas Month in question, subject to any additional restrictions imposed by the Transporter or by Company pursuant to Company's Tariff.

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 at the following addresses:

Company: Peninsula Pipeline Company, Inc.
500 Energy Lane, Suite 200
Dover, Delaware 19901
Attention: Contracts

Shipper: Florida Public Utilities Company
500 Energy Lane, Suite 200
Dover, Delaware 19901
Attention: Contracts

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 Exhibit attached hereto, sets forth the full and complete understanding of the Parties as of the Execution Date, 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 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 by virtue of this Agreement 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 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. If, however, any Governmental Authority's modification to this Agreement or any other order issued, action taken, interpretation rendered, or rule implemented, will have a material adverse effect on the rights and obligations of the Parties, including, but not limited to, the relative economic position of, and risks to, the Parties as reflected in this Agreement, then, subject to the provisions of Section 3.3 of this Agreement, the Parties shall use reasonable efforts to agree upon replacement terms that are consistent with the relevant order or directive, and that maintain the relative economic position of, and risks to, the Parties as reflected in this Agreement

as of the Execution Date. As used herein, "Governmental Authority" shall mean any United States federal, state, local, municipal or other government; any governmental, regulatory or administrative agency, court, commission or other authority lawfully exercising or entitled to exercise any administrative, executive, judicial, legislative, police, regulatory or taxing authority or power; and any court or governmental tribunal.

- (i) If any Governmental Authority asserting jurisdiction over the pipeline facility contemplated in this Agreement, issues an order, ruling, decision or regulation not covered by Section 3.3 of this Agreement (including denial of necessary permits or amendments to existing permits) related to the operation, maintenance, location, or safety and integrity compliance, including any new or revised enforceable regulatory classification of the pipeline facility, as applicable, which is not reasonably foreseeable as of the Execution Date and which results in a materially adverse effect on either Party's rights and benefits under this Agreement, each Party shall use commercially reasonable efforts and shall cooperate with the other Party to pursue all necessary permits, approvals and authorizations, if any, of such applicable Governmental Authority, and to amend the terms and conditions of this Agreement, in each case as may be reasonably required in order that provision of firm transportation service under this Agreement shall continue; provided that neither Party shall be required to take any action pursuant to this Section which is reasonably likely to have a materially adverse effect on such Party's rights and benefits under this Agreement.

- (ii) If the Parties are unable or unwilling to reach agreement pursuant to this Section 9.10, Company shall have the right to terminate this Agreement, without any further obligations to Shipper, upon one hundred twenty (120) days prior written notice to Shipper.

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.

COMPANY
Peninsula Pipeline Company, Inc.

SHIPPER
Florida Public Utilities Company

By: Marissa Stipa
Marissa Stipa

By: Bill Hancock
Bill Hancock

Title: Director

Title: AVP - Energy Logistics and Pipelines

Date: 04/06/2023 , YYYY

Date: 04/06/2023 , YYYY

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

<u>Description of Transporter Delivery Point(s)</u>	<u>Description of Point(s) of Delivery</u>
<u>Florida Gas Transmission- Trenton gate station</u>	<u>At or near the vicinity of the intersection of NW State Road 45 and NW 9th Place</u>

Total MDTQ (Dekatherms): [REDACTED] Dt/Day

MHTP: 4.17%

Monthly Reservation Charge: [REDACTED] ([REDACTED] Dekatherm). This charge is subject to adjustment pursuant to the terms of this Agreement.

ATTACHMENT B

Project Map

