

Eric Fryson

120178-60

From: Keating, Beth [BKeating@gunster.com]
Sent: Monday, June 25, 2012 11:58 AM
To: Filings@psc.state.fl.us
Cc: Cheryl Martin
Subject: New Filing
Attachments: 20120625114004710.pdf

Attached for electronic filing, please find the Joint Petition of the Florida Division of Chesapeake Utilities Corporation and Florida Public Utilities Company, Indiantown Division for a waiver of Rule 25-7.045(8)(a), F.A.C. As always, please do not hesitate to contact me if you have any questions.

a. Person responsible for this electronic filing:

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

b. **New Filing** – Joint petition for waiver of depreciation study filing requirement in Rule 25-7.045(8)(a), Florida Administrative Code, by Florida Public Utilities, Indiantown Division and for extension of waiver of Rule 25-7.045(8)(a), by the Florida Division of Chesapeake Utilities Corporation

c. On behalf of: Florida Division of Chesapeake Utilities Corporation and Florida Public Utilities Company, Indiantown Division

d. There are a total pages: 8

e. Description: Joint Petition for Waiver



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Writer's Direct Dial Number: (850) 521-1706
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June 25, 2012

VIA E-MAIL FILINGS@PSC.STATE.FL.US

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

Re: Joint petition for waiver of depreciation study filing requirement in Rule 25-7.045(8)(a), Florida Administrative Code, by Florida Public Utilities, Indiantown Division and for extension of waiver of Rule 25-7.045(8)(a), by the Florida Division of Chesapeake Utilities Corporation

Dear Ms. Cole:

Attached for electronic filing, please find the Joint Petition of Florida Public Utilities, Indiantown Division and the Florida Division of Chesapeake Utilities Corporation for a Waiver of Rule 25-7.045(8)(a), Florida Administrative Code.

Should you have any questions whatsoever, please do not hesitate to contact me. Thank you for your assistance in this matter.

Sincerely,

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

MEK

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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Joint petition for waiver of depreciation study filing requirement in Rule 25-7.045(8)(a), Florida Administrative Code, by Florida Public Utilities, Indiantown Division and for extension of waiver of Rule 25-7.045(8)(a), by the Florida Division of Chesapeake Utilities Corporation

Docket No. 120178-

Filed: June 25, 2012

JOINT PETITION OF FLORIDA PUBLIC UTILITIES COMPANY, INDIANTOWN DIVISION AND THE FLORIDA DIVISION OF CHESAPEAKE UTILITIES CORPORATION FOR A WAIVER AND EXTENSION OF WAIVER OF RULE 25-7.045(8)(A), FLORIDA ADMINISTRATIVE CODE

The Florida Division of Chesapeake Utilities Corporation (“CHPK” or “Company”) and Florida Public Utilities Company, Indiantown Division, (“Indiantown”)(jointly herein, “Companies”) through undersigned counsel and pursuant to Rule 28-104.002, F.A.C., and Section 120.542, Florida Statutes, hereby jointly petition the Commission for an extension of the waiver of Rule 25-7.045(8)(a), F.A.C., which the Commission granted in on June 19, 2012, as well as a waiver of the same rule, in the first instance, for Indiantown. The Rule would have required CHPK to file its next depreciation study within five years of the filing of its previous depreciation study, but the Commission recently granted an initial waiver of the Rule to allow the Company to file its depreciation study on or before August 17, 2012.¹ CHPK now seeks an extension of the waiver until June 30, 2013, to allow it to file CHPK’s depreciation study at the same time that the depreciation studies due for Florida Public Utilities Company-Indiantown and Florida Public Utilities, Natural Gas Division are filed. Likewise, Indiantown seeks a temporary waiver of one month to allow it to file its depreciation study, which would otherwise be due May 30, 2013, on June 30, 2013. In support of this request, the Companies state:

¹ Docket No. 120081-GU.

1. CHPK and Indiantown are natural gas utilities with their principal offices located at:

1641 Worthington Road, Suite 220
West Palm Beach, FL 33409-6703

2. Please send copies of all notices, pleadings and other communications and documents in this docket to the following:

Beth Keating
Gunster, Yoakley & Stewart, P.A.
215 South Monroe St., Suite 601
Tallahassee, FL 32301

Florida Division of Chesapeake
Utilities Corporation/Florida Public Utilities
Company, Indiantown Division
Cheryl Martin, Director/Regulatory Affairs
1641 Worthington Road, Suite 220
West Palm Beach, FL 33409-6703

3. CHPK and Indiantown are both natural gas utilities subject to regulation by the Commission in accordance with Chapter 366, Florida Statutes.
4. Rule 25-7.045(8)(a), F.A.C. , provides that:

Each company shall file a study for each category of depreciable property for Commission review at least once every five years from the submission date of the previous study unless otherwise required by the Commission.

CHPK filed its last depreciation study on May 17, 2007; thus, CHPK's next study would have been due to be filed on or before May 17, 2012, in accordance with the Rule. However, the Company petitioned the Commission for a temporary waiver of the Rule requirement to provide an additional 90 days to complete the filing, thereby allowing CHPK to file its depreciation study on or before August 17, 2012. At the Commission's June 19, 2012, Agenda Conference, the Commission granted CHPK's request for a waiver. Upon consideration, however, both CHPK and Indiantown believe that filing all three companies' depreciation studies at the same time has

significant merit in view of ongoing efforts of the Companies to complete the consolidation efforts resulting from the transactions described below.

5. Specifically, on October 28, 2009, Florida Public Utilities Company (“FPUC”) became a wholly-owned subsidiary of Chesapeake Utilities Corporation, which operates CHPK. Thereafter, on August 6, 2010, FPUC acquired Indiantown Gas Company (“Indiantown”). Consistent with continuing efforts to recognize all of the synergies of these transactions, the Companies are working towards a full consolidation of their operations, including consolidation of their tariffs and filing requirements. In this context, the Companies note that both FPUC and Indiantown have depreciation studies due in 2013, with Indiantown’s due on May 30 and FPUC’s due on December 10, 2013. Because the Companies are targeting 2013 for full consolidation, they believe that there are significant administrative efficiencies associated with further delay of the filing of its depreciation study to coincide with the filing of the depreciation studies of its sister companies. The Companies, therefore, ask for an extension of the waiver approved for CHPK, as well as an additional waiver of the same Rule for Indiantown, to allow all three (3) entities, FPUC, FPUC-Indiantown, and CHPK, to file their depreciation studies on June 30, 2013.

5. The Companies anticipate that, in conjunction with this subsequent filing, the Companies will request approval of a blended depreciation rate for the Companies, such that once all three Companies’ rates and tariffs are combined, there will not be a need to file a subsequent, revised depreciation study. This will avoid unnecessary duplication of efforts by the Companies’ personnel and the Commission.

6. Pursuant to Section 120.542(2), Florida Administrative Code, the Commission is authorized to grant the waiver, as well as the requested waiver extension, if the application of the

Rule would otherwise work an undue hardship on the Companies and if the Companies can demonstrate that the purpose of the underlying statute will be achieved by other means.

7. As noted in the prior request for waiver, Rule 25-7.045 provides a detailed – and lengthy – list of the items that must be included in the studies, and further specifies that the calculations of depreciation rates must be provided using both whole life and remaining life methods. Even under ordinary circumstances, preparing a depreciation study is a time-consuming, difficult task.

8. Moreover, as noted, the Companies are engaged in the preliminary tasks necessary to effectuate the consolidation of CHPK's and Indiantown's books and tariffs (and depreciation rates) under Florida Public Utilities Company. As such, the personnel that are responsible for plant accounting have been charged with significant projects that have increased their workload significantly – projects that will ultimately facilitate consolidation and, as mentioned, further enable the Companies to recognize the synergies associated with the merger. Filing all three (3) studies before June 2013 will, therefore, impose an undue hardship on the Companies, as a result of these recent, increased demands on personnel and resources of the Companies.² Moreover, it will result in unnecessarily duplicative efforts of all involved, in that, upon completion of the consolidation efforts, which are targeted for 2013, the consolidated entity would then be required to submit yet another depreciation study to reflect the consolidated entity. The Companies note that in filing all three studies in June 2013, the Florida Public Utilities Company study would be filed slightly early. In addition, the Companies emphasize that if it appears possible to file prior to the date requested herein, the Companies commit to do so.

9. The purpose of the underlying statutes will still be fulfilled if the Commission grants the requested waiver and waiver extension. Specifically, Section 350.115 authorizes the

² Notably, consolidation of accounting personnel has already taken place.

Commission to “prescribe by rule uniform systems and classifications of accounts for each type of regulated company and approve or establish adequate, fair, and reasonable depreciation rates and charges.” Section 366.06(1)³ authorizes the Commission to:

. . . investigate and determine the actual legitimate costs of the property of each utility company, actually used and useful in the public service, and to keep a current record of the net investment of each public utility company and such property which value, as determined by the Commission, shall be used for ratemaking purposes and shall be the money honestly and prudently invested by the public utility company in such property used and useful in serving the public, less accrued depreciation and shall not include any goodwill or going concern value or franchise value in excess of the payment made therefore.

CHPK and Indiantown only seek additional time in which to file their studies; therefore, the purpose of both underlying statutes will still be fulfilled when the Companies file the studies in June 2013 providing the Commission with the required data. This extension will simply enable CHPK and Indiantown to prepare the required studies without undue hardship and cost imposed on the Companies or their accounting personnel, while also avoiding unnecessary duplication of effort in this regard once the Companies complete their consolidation.

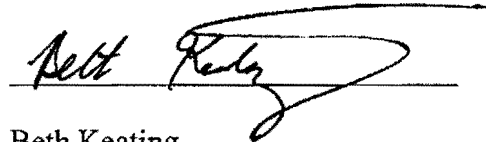
10. The Companies therefore ask that the previously approved waiver of Rule 25-7.045(8)(a), F.A.C., whereby the Commission granted CHPK permission to file its depreciation study by August 17, 2012, be further extended to allow CHPK to file its next depreciation study with the studies to be submitted by FPUC and Indiantown, and that Indiantown be granted a limited waiver to allow it to file its depreciation study June 30, 2013.

WHEREFORE, the Florida Division of Chesapeake Utilities Corporation and Florida Public Utilities Company, Indiantown Division ask that the Commission:

³ The Companies note Section 366.06 is not specifically referenced in the depreciation rule for natural gas utilities, but is referenced in the corresponding rule applicable to electric utilities, Rule 25-6.0436, F.A.C., but nonetheless appears to provide underlying authority for both depreciation rules.

1. Grant the request for a further extension of the temporary waiver of Rule 25-7.045(8)(a), Florida Administrative Code, previously approved in Docket No. 120081-GU, to allow CHPK to file its depreciation study on June 30, 2013; and
2. Grant Indiantown a waiver of Rule 25-7.045(8)(a), Florida Administrative Code, to allow it to file its depreciation study on or before June 30, 2013.

Respectfully submitted this 25th day of June, 2012, by:

A handwritten signature in black ink, appearing to read "Beth Keating", is written over a horizontal line.

Beth Keating
Gunster, Yoakley & Stewart, P.A.
215 South Monroe St., Suite 601
Tallahassee, FL 32301

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

Certificate of Service

I HEREBY CERTIFY that a true and correct copy of the foregoing Petition for Extension of Waiver has been furnished via U.S. Mail this 25th day of June, 2012, to the Joint Administrative Procedures Committee, 680 Pepper Building, 111 W. Madison Street, Tallahassee, FL 32399-1400.

A handwritten signature in black ink, appearing to read "Beth Keating", is written over a horizontal line.

Beth Keating
Gunster, Yoakley & Stewart, P.A.
215 South Monroe St., Suite 601
Tallahassee, FL 32301