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June 17, 2016

BY E-PORTAL

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

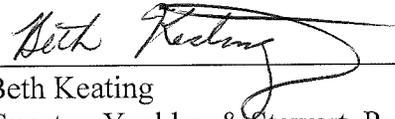
Re: [New Docket] - Petition for Approval of Final True-Up of Environmental Surcharge by the Florida Division of Chesapeake Utilities Corporation

Dear Ms. Stauffer:

Attached for filing, please find the Petition for Approval of Final True-Up of Environmental Surcharge by the Florida Division of Chesapeake Utilities Corporation, along with the testimony and exhibit of Michelle Napier on behalf of Company.

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:// Jennifer Crawford (General Counsel's Office)
J.R. Kelly (Public Counsel)

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for Approval of Final True-Up
of Environmental Surcharge by the Florida
Division of Chesapeake Utilities Corporation

Docket No.
Filed: June 17, 2016

PETITION FOR APPROVAL OF FINAL TRUE-UP OF
ENVIRONMENTAL SURCHARGE
BY THE FLORIDA DIVISION OF CHESAPEAKE UTILITIES CORPORATION

Pursuant to Sections 366.041 and 366.06, Florida Statutes, and in accordance with Rules 28-106.201 and 25-22.036(1), Florida Administrative Code, the Florida Division of Chesapeake Utilities Corporation (“CHPK” or “Company”), hereby files this Petition seeking Florida Public Service Commission (“Commission”) approval of the final true-up of the environmental surcharge approved by the Commission in Order No. PSC-10-0029-PAA-GU, issued in Docket No. 090125-GU, on January 14, 2010¹ and extended through August 31, 2015, by Order No. PSC-14-0052-PAA-GU, issued January 27, 2014, in Docket No. 130273-GU. In support of this request, the Company states:

1. The principal business address of CHPK is:

1750 S. 14th Street, Suite 200
Fernandina Beach, FL 32034

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
(850) 521-1706

Mike Cassel
Florida Public Utilities Company
1750 S. 14th Street, Suite 200
Fernandina Beach, FL 32034

¹ Surcharge initially established by Order No. PSC-00-2263-FOF-GU, issued November 28, 2000, in Docket No. 000108-GU.

CHESAPEAKE – ENVIRONMENTAL SURCHARGE

4. CHPK is a natural gas utility subject to the Florida Public Service Commission's ("Commission") jurisdiction under Chapter 366, Florida Statutes. It is an operating division of Chesapeake Utilities Corporation.

5. The Commission is vested with jurisdiction in this matter in accordance with Sections 366.04, 366.041, 366.05, and 366.06, Florida Statutes, pursuant to which the Commission is authorized to establish rates and charges for public utilities, including the relief requested herein.

6. The Company's substantial rights will be directly affected by the Commission's resolution of this Petition, as the Commission's decision upon this request will direct how the Company addresses the final accounting regarding the referenced environmental surcharge. The Company is unaware of any material facts in dispute in this regard. 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.

Background

7. The Company is the owner of property that is the former site of a Manufactured Gas Plant (MGP). The address of the property in question is 1705 Seventh St., SW, Winter Haven, Florida. The MGP operated at the site from approximately 1928 until 1953.

8. As the Company has outlined in the referenced prior proceedings, by-products from the manufacturing process used at the MGP included tar, spent fuel oil and sludges, waste scrubber shavings, and purifier box wastes. These by-products contained such contaminants as polycyclic aromatic hydrocarbons ("PAHs"), benzene, toluene, ethylbenzene, xylenes, phenols, and cyanide. While the MGP was not in violation of any law at the time these contaminants were released, legislation enacted since the closing of the MGP imposed retroactive liability on former and current owners of these sites.

9. That legislation was the Comprehensive Environmental Response, Compensation, and Liability Act (“CERCLA”), enacted in 1980. It imposed liability on the former and current owners of a contaminated site, holding them responsible for remediation.² Thereafter, in June 1985, the Commission directed the Florida natural gas utilities to identify and provide information regarding the former sites of manufactured gas plants. The Company responded with information regarding the Winter Haven MGP. This response, along with similar responses of other Florida natural gas utilities, was forwarded to the Florida Department of Environmental Regulation (k/n/a Department of Environmental Protection, hereinafter “DEP”). In 1990, the Company executed Consent Order # 88-1292 with DEP (“Consent Order”), pursuant to which the Company is required to remediate all environmental impacts associated with the former MGP.

10. In May 2001, DEP approved the Company’s proposal to implement air spurge/soil vapor extraction as a remedy for the MFP-hydrocarbon impacts present in areas of the site. The Company also performed excavation and removal of petroleum-tainted soil in 2008. In 2009, Polk County required the Company to perform additional sampling in order to complete the remediation monitoring requirements.³

11. Also in 2009, the Company filed a petition for a rate increase, Docket No. 090125-GU, wherein the Company addressed the increasing costs for remediation of the site and asked that the Commission approve a surcharge to allow the Company to recover its to-date under-recovery of \$268,257 in environmental costs, as well as the projected additional costs of \$688,000 to

² Florida enacted similar provisions in 1983, now reflected in the provisions of Chapters 376 and 403, Florida Statutes.

³ A more detailed history of the MGP can be found in the Testimony of Mr. William Pence, submitted in Docket No. 090125-GU on July 14, 2009.

CHESAPEAKE – ENVIRONMENTAL SURCHARGE

complete the project.⁴ The Company requested that the Commission approve a fixed surcharge, as opposed to a variable cents-per-therm rate, in order to provide greater certainty as to the revenues associated with the surcharge. The Company had also believed that this method would result in only a minimal true-up at the end of the period.

12. By Order No. PSC-10-0029-PAA-GU, issued January 14, 2010, the Commission approved this request, allowing the Company to recover \$956,257 (\$688,000 + \$268,257) through the surcharge over a four-year period. For residential customers, this amounted to an additional \$.062 on their monthly bill over the 4-year period.

13. Remediation efforts have been ongoing at the site since the DEP approved a Remediation Action Plan (“RAP”) on February 2, 2002, which included the installation and operation of a bio-sparge system and groundwater monitoring. Since that time, semi-annual reports have been submitted to DEP for review and comment. The latest Semi-Annual RAP Implementation Status Report was submitted in February 2016 and approved by DEP shortly thereafter. The Status Report details the cleanup activities and documents the operational and monitoring activities at the site as well as makes recommendations for future activities based on current site conditions.

14. A modification to the RAP could be considered in the future that may include risk-based management options tailored to the specific conditions and risks at the site. These options could include natural attenuation and/or the use of institutional or engineering controls. In the event that any of these options are proposed, a modification to the Consent Order may be required due to the age of the Consent Order. More recent versions of DEP’s cleanup rule include the use of risk-based management options, and it is possible that the Consent Order could be modified to

⁴ The Commission had previously allowed the Company to collect \$71,114 annually to recoup the Company’s environmental costs by Order No. PSC-00-2263-FOF-GU, issued in Docket Nol. 000108-GU (2000 Rate Case).

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allow this course of action, which is regularly utilized in current cleanup activities. The Company emphasizes, however, the clean-up efforts and monitoring are ongoing, and according to the Company's outside consultant can be expected to continue for some years to come.

15. By Order No. PSC-14-0052-PAA-GU, issued in Docket No. 130273-GU, the Commission approved an extension of the surcharge to recover the Company's projected costs of \$380,781, which included additional remediation costs of \$443,000. In order to avoid customer confusion, the Commission approved a 20-month extension with the surcharge remaining at the previously set amount of \$.062/month. Consistent with that Order, the surcharge was terminated August 31, 2015.

FINAL ACCOUNTING

16. As reflected in Ms. Napier's testimony, groundwater monitoring results have shown a continuing reduction in contaminant concentrations from the sparging system, which has been in operation since 2002. On September 12, 2014, FDEP issued a letter approving shutdown of the sparging operations on the northern portion of the site, contingent upon continued semi-annual monitoring. Groundwater monitoring results on the southern portion of this site indicate that natural attenuation default criteria continue to be exceeded. The well installation and abandonment program was implemented in October 2014 and documentation was reported in the semi-annual RAP implementation status report submitted on January 8, 2015. FDEP approved the plan to expand the bio-sparging operations in the southern portion of the site, which has resulted in the installation of additional sparge points, piping and connections at the southern end of the site. The Company's environmental consultant anticipates that the Company will, nonetheless, be required to incur additional remediation costs for the subsurface soils and

CHESAPEAKE – ENVIRONMENTAL SURCHARGE

groundwater at the site and bio-sparging will continue on the southern end of the site. The Company expects that costs should not exceed \$443,000. However, the ultimate remedial actions and final cost estimates could change depending on the FDEP.

17. As noted above, by Order No. PSC-14-0052-PAA-GU, issued in Docket No. 130273-GU, the Commission approved the extension of the surcharge to recover the Company's projected costs of \$380,781, which included the anticipated additional remediation costs of \$443,000 noted above less an anticipated prior period over-recovery of \$62,219. During the extension period January 2014 through August 2015, CFG recovered \$275,355. Had the anticipated \$443,000 in remediation costs been incurred in the time frame expected, this would have actually resulted in an under-recovery of \$51,230. However, the \$443,000 was not incurred during the extension period, leaving a remainder amount of \$391,770.

18. Nonetheless, as previously mentioned, the semi-annual groundwater monitoring on the northern portion of the site is ongoing, and the Company's environmental consultant anticipates that the additional remediation costs will be incurred and that, with the remediation anticipated to extend for up to five additional years, more costs are likely to be incurred, as set forth in the attached Affidavit of Michele Ruth. With the termination of the surcharge, there is no other existing avenue for the Company to recover these future, anticipated amounts. The remaining amount of \$391,770, however, would be sufficient to cover a substantial portion of the projected costs. As such, given the near certainty that these additional costs will be incurred, the Company is requesting approval to retain the \$391,770 amount for purposes of addressing these anticipated additional remediation costs.

19. Specifically, the Company proposes to retain the true-up amount as a regulatory liability in Account 2540 for purposes of addressing the further expected remediation costs with the

CHESAPEAKE – ENVIRONMENTAL SURCHARGE

status of the remediation efforts and remainder amounts, if any, being subject to review in the Company's next rate case. Allowing the Company to retain the identified amount will ensure that the Company is better positioned to address additional remediation costs consistent with the Commission's intent set forth in prior orders.

20. If the Company is required to refund or otherwise dispose of the accrued amount, the Company will face certain financial harm when the expected amounts are incurred, which could unnecessarily hasten the filing of a rate case. In contrast, if the Commission allows the Company to retain the amount in question, the Company's ratepayers will not be harmed, because the status of the remediation efforts and amount held to address such efforts will be subject to review in the next rate case. Moreover, as noted, should the Company be required to refund the amount in question, and the expenses be subsequently incurred, any resulting rate case would require the Company to incur additional expenses which would then be passed on to ratepayers.

21. The Company acknowledges and cautions that it is possible, given the anticipated length of time over which the remediation efforts are expected to continue, that costs in excess of the \$391,770 may be incurred, which may necessitate the Company seek further relief from the Commission. At present, given the unknowns regarding further remediation requirements and costs, the Company seeks only to retain the \$391,770 as set forth herein.

RELIEF

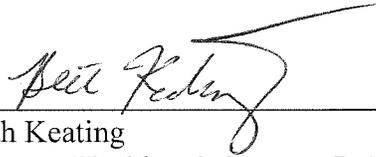
22. In light of the foregoing and the anticipated additional environmental compliance costs associated with the MGP site, the Company therefore asks that the Commission allow the Company to retain the amount \$391,770, as set forth herein, for purposes of addressing expected

CHESAPEAKE – ENVIRONMENTAL SURCHARGE

additional remediation expenses consistent with the proposal set forth herein.

RESPECTFULLY SUBMITTED this 17th day of June, 2016.

By: _____



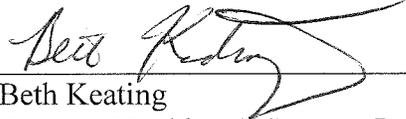
Beth Keating
Gunster, Yoakley & Stewart, P.A.
215 South Monroe St., Suite 601
Tallahassee, FL 32301
(850) 521-1706

*Attorneys for the Florida Division of
Chesapeake Utilities Corporation*

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been served upon the following by U.S. Mail this 17th day of June, 2016.

| | |
|--|--|
| Jennifer Crawford Florida Public Service Commission 2540 Shumard Oak Boulevard Tallahassee, FL 32399-0850 jcrowfor@psc.state.fl.us | J.R. Kelly Office of Public Counsel c/o The Florida Legislature 111 W. Madison Street, Room 812 Tallahassee, FL 32399-1400 <u>Christensen.patty@leg.state.fl.us</u> |
| Mike Cassel Florida Public Utilities Company 1750 S. 14th Street, Suite 200 Fernandina Beach, FL 32034 | |

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

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for Approval of Final True-Up
of Environmental Surcharge by the Florida
Division of Chesapeake Utilities Corporation

Docket No.

STATE OF FLORIDA
MARTIN COUNTY

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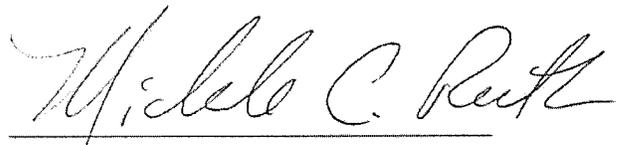
AFFIDAVIT OF MICHELLE RUTH

BEFORE ME, the undersigned authority, personally appeared Michele Ruth who, being first duly sworn, deposes and says:

1. My name is Michele C. Ruth. I am the founder and owner of Ruth Associates, Inc., where I work as a hydrogeologist and chemical engineer. I am a licensed Professional Engineer. My business address is 8 East High Point Road, Stuart, Florida 34996. With regard to the matters stated in this affidavit, I have personal knowledge as it relates to most aspects. As it relates to those matters with which I do not have direct personal knowledge, my statements herein have been informed by information provided to me that I rely upon in the normal course of business. The contents of this Affidavit are true and correct to the best of my knowledge and experience.
2. My firm has been engaged by Central Florida Gas/Chesapeake Utilities Corporation ("Company") for 16 years with responsibility for the management and oversight of remediation operations, including responsibilities involving reporting and coordination of activities with the Florida Department of Environmental Protection ("FDEP") as it relates to FDEP Case No. No 88-1292 regarding the former Winter Haven Manufactured Gas Plant site located at 1621 7th Street SW, Winter Haven, Florida.
3. Based upon the most current testing and status of ongoing remediation, I expect and believe that remediation activities will be ongoing at this site for the next 4-5 years.
4. Groundwater monitoring results on the southern portion of this site indicate that natural attenuation default criteria continue to be exceeded. FDEP approved a plan to expand the bio-sparging operations in the southern portion of the site, and additional sparge points were installed and connected to the operating system in the first quarter of 2016. Bio-

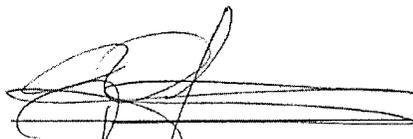
sparging is ongoing on the southern end of the site and injection flows will continue to be monitored.

5. Although specific additional remedial actions for the site have not yet been identified, I anticipate that future remediation costs for the subsurface soils and groundwater at the site should not exceed \$443,000.
6. Until all remediation efforts have been completed, the Company can expect to incur additional costs associated with the monitoring, testing, remediation activities, and reporting requirements applicable to this site.
7. Affiant says nothing further.



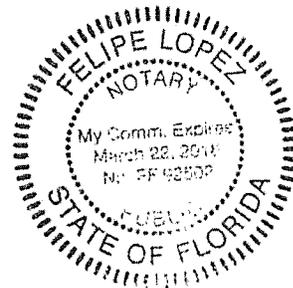
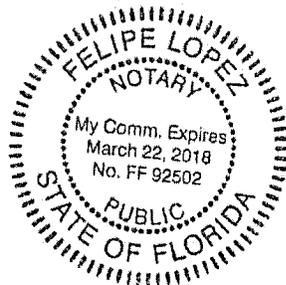
Michele C. Ruth, P.E.

Sworn to and Subscribed before me this 9th day of June, 2016, by MICHELE RUTH which is personally known to me or who has produced FL Driver Lic (type of identification) as identification and who did take an oath.



Notary Public, State of Florida

My Commission expires: MARCH 22 2018



1 BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

2 DOCKET NO. 090125-GU

3 IN RE: ENVIRONMENTAL SURCHARGE

4 DIRECT TESTIMONY OF MICHELLE D. NAPIER

5 On behalf of

6 Florida Division of Chesapeake Utilities Corporation (CFG)

7

8 Q. Please state your name and business address.

9 A. My name is Michelle D. Napier. My business address is 1641 Worthington Road,
10 Suite 220, West Palm Beach, Florida 33409.

11 Q. By whom are you employed and in what capacity?

12 A. I am employed by Florida Public Utilities Company (FPUC) as the Senior Regulatory
13 Analyst.

14 Q. Can you please provide a brief overview of your educational and employment
15 background?

16 A. I graduated from University of South Florida in 1986 with a Bachelor of Science
17 degree in Finance. I have been employed with FPUC since 1987. During my
18 employment at FPUC, I have performed various roles and functions in accounting,
19 management and most recently, regulatory accounting (PGA, conservation,
20 surveillance reports, regulatory reporting).

21 Q. What is the purpose of your testimony in this docket?

22 A. To advise the Commission of the actual over/under recovery of the Environmental
23 Surcharge, provide the status of the additional remediation costs approved for the
24 extension period in Order No. PSC-14-0052-PAA-GU of Docket No. 130273-GU as
25 well as provide an update on the remediation efforts at the site.

1 Q. Please state the actual amount of over/under recovery of the Environmental Surcharge
2 at August 31, 2015.

3 A. At end of August 31, 2015, CFG had over-recovered \$391,770. This amount is
4 comprised of recoveries from the environmental surcharge approved in the Company's
5 2009 Rate Case, Order No. PSC-10-0029-PAA-GU of Docket No. 090125-GU, and
6 its subsequent extension approved in Order No. PSC-14-0052-PAA-GU of Docket
7 No. 130273-GU.

8 Q. Please explain the actual over/under recovery of Environmental costs through the
9 surcharge approved in the last rate case.

10 A. In the Company's 2009 Rate Case, Order No. PSC-10-0029-PAA-GU of Docket No.
11 090125-GU, the Company was approved to recover \$956,257 (includes previous
12 under-recovery of \$268,257) in remediation costs through a surcharge that was due to
13 expire December 2013. The total costs incurred for this period was \$642,949, which
14 is detailed in Exhibit A. At the end of the initial four-year period, CFG had over-
15 recovered \$116,415.

16 Q. Please explain the actual amount of over/under recovery of the Environmental costs
17 through the extension of the surcharge for the period ending August 31, 2015.

18 A. In the Company's petition for the extension, in Order No. PSC-14-0052-PAA-GU of
19 Docket No. 130273-GU, the Company was approved to recover \$380,781, which
20 included the projected over-recovery at December 31, 2013 of \$62,219 and an
21 estimated \$443,000 in additional remediation costs. These additional costs relate to
22 remedial actions for the subsurface soils and groundwater on the southern portion of
23 the site, which includes an estimate of \$100,000 to implement additional actions such
24 as institutional controls at the site. The total costs incurred were \$144,199 and CFG
25 over-recovered \$275,355 during the extension period (See Exhibit A).

1 Q. Has the Company incurred any charges related to the additional remediation costs
2 during the extension period?

3 A. Per Order No. PSC-14-0052-PAA-GU of Docket No. 130273-GU, the Company
4 estimated \$443,000 in additional remediation costs. At the end of the extension
5 period, August 31, 2015, the Company had not incurred any of these remediation
6 costs. However, the Company subsequently incurred costs in the beginning of 2016
7 and anticipates incurring more costs that will be applied against the over-recovery.
8 The Company also expects to incur costs related to the continued semi-annual
9 monitoring of the sparging operations on the northern portion of the site that will also
10 be applied to the over-recovery.

11 Q. What does the Company propose to do with the over-recovery of \$391,770?

12 A. The Company is requesting approval from this Commission to retain the over-
13 recovery as a regulatory liability in Account 2540. As previously mentioned, the
14 semi-annual groundwater monitoring on the northern portion of the site is ongoing,
15 and the Company's environmental consultant anticipates that the additional
16 remediation costs will continue. Because the surcharge has now terminated, there is
17 no ongoing mechanism to recover the additional costs related to the northern portion
18 of the site. Also, had the anticipated additional remediation costs been incurred
19 during the extension period, the Company would have experienced an under-recovery
20 of \$51,230.

21 Q. What is the status of remediation efforts at the Winter Haven site, related to the
22 extension of the surcharge in Docket No. 130273-GU?

23 A. Groundwater monitoring results have shown a continuing reduction in contaminant
24 concentrations from the sparging system, which has been in operation since 2002. On
25 September 12, 2014, FDEP issued a letter approving shutdown of the sparging

1 operations on the northern portion of the site, contingent upon continued semi-annual
2 monitoring. Groundwater monitoring results on the southern portion of this site
3 indicate that natural attenuation default criteria continue to be exceeded. Plans to
4 modify the monitoring network on the southern portion of this site in order to collect
5 additional data to support the development of a remedial plan were specified in a letter
6 to the FDEP, dated October 17, 2014. The well installation and abandonment
7 program was implemented in October 2014 and documentation was reported in the
8 semi-annual RAP implementation status report submitted on January 8, 2015. FDEP
9 approved the plan to expand the bio-sparging operations in the southern portion of the
10 site, and that work began the first quarter of 2016. At this point, additional sparge
11 points have been installed and connected to the operating system. Although the
12 consultant believes that the current reserve and planned bio-sparging actions are
13 sufficient to resolve the issue, the ultimate remedial actions and final cost estimates
14 could change depending on the FDEP. The environmental consultant continues to
15 estimate that future remediation costs for the subsurface soils and groundwater at the
16 site should not exceed \$443,000.

17 Q. What is the current status of the Consent Order issued by FDEP?

18 A. Since the DEP approved the current Remediation Action Plan (“RAP”) on February 2,
19 2002, the Company has been engaged in remediation efforts, which have included the
20 installation and operation of a bio-sparge system and groundwater monitoring. We
21 continue to submit semi-annual reports to DEP with the latest RAP Implementation
22 Status Report being submitted in February 2016. It was approved by DEP shortly
23 thereafter.

24 There have been discussions with DEP that, perhaps, a modification to the RAP could
25 be considered in the future that may include risk-based management options tailored

1 to the specific conditions and risks at the site. In the event that any of these options
2 are proposed, it is our understanding that a modification to the Consent Order may be
3 required, simply because the Consent Order was issued before the DEP clean-up rules
4 contemplated the use of risk-based management options.

5 Q. Has the surcharge been terminated?

6 A. Yes. In accordance with Order No. PSC-14-0052-PAA-GU, the surcharge was
7 terminated as of August 31, 2015.

8 Q. Have you prepared any exhibits at this time?

9 A. We have prepared Exhibit A, containing the Final Over/Under Recovery on
10 Environmental for the initial four-year period January 2010 through December 2013
11 as well as the extension period January 2014 through August 2015.

12 Q. Does this conclude your testimony?

13 A. Yes.

