

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-**

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**DATE:** August 27, 2021

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

**FROM:** Division of Economics (Hampson, Coston) *JGH*  
Office of the General Counsel (Osborn) *JSC*

**RE:** Docket No. 20210106-GU – Petition for approval of transportation service agreement between Peninsula Pipeline Company, Inc. and Florida Division of Chesapeake Utilities Corporation.

**AGENDA:** 09/08/21 – Regular Agenda – Proposed Agency Action – Interested Persons May Participate

**COMMISSIONERS ASSIGNED:** All Commissioners

**PREHEARING OFFICER:** Passidomo

**CRITICAL DATES:** None

**SPECIAL INSTRUCTIONS:** None

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### Case Background

On May 26, 2021, Peninsula Pipeline Company, Inc. (Peninsula) filed a petition seeking approval of a firm transportation service agreement (Agreement) between Peninsula and the Florida Division of Chesapeake Utilities Corporation, d/b/a Central Florida Gas (CFG), collectively the Joint Petitioners. Peninsula operates as a natural gas transmission company as defined by Section 368.103(4), Florida Statutes (F.S.).<sup>1</sup> CFG provides natural gas service to residential, commercial, and industrial customers in areas including Polk County and currently receives deliveries of natural gas over interstate transmission pipelines owned by Gulfstream

<sup>1</sup> Order No. PSC-06-0023-DS-GP, issued January 9, 2006, in Docket No. 20050584-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.*

Natural Gas System and Florida Gas Transmission Company (FGT). CFG is a local distribution company subject to the regulatory jurisdiction of the Commission pursuant to Chapter 366, F.S.

By Order No. PSC-07-1012-TRF-GP,<sup>2</sup> 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 transportation service and 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.<sup>3</sup> 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.<sup>4</sup> Furthermore, the Joint Petitioners are subsidiaries of Chesapeake Utility Corporation 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.

In accordance with the proposed Agreement, Peninsula will construct, own, and operate a natural gas pipeline, a new gate station, and a new delivery receipt station in Polk County. During the evaluation of the petition, staff issued two data requests to the Joint Petitioners, for which responses were received on July 23, 2021 and on August 9, 2021. In addition, staff held an informal follow-up meeting with the Joint Petitioners on August 16, 2021. The proposed Agreement is included with this recommendation as Attachment A. The project map, identifying the proposed construction projects, is included as Attachment B to this recommendation. The dashed line represents the pipeline Peninsula will construct, pursuant to the proposed Agreement. The Commission has jurisdiction over this matter pursuant to Sections 366.05(1), 366.06, and 368.105, F.S.

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<sup>2</sup> Order No. PSC-07-1012-TRF-GP, issued December 21, 2007, in Docket No. 20070570-GP, *In re: Petition for approval of natural gas transmission pipeline tariff by Peninsula Pipeline company, Inc.*

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

<sup>4</sup> 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 Transportation Service Agreement between Peninsula and CFG dated May 7, 2021?

**Recommendation:** Yes, the Commission should approve the proposed Transportation Service Agreement between Peninsula and CFG dated May 7, 2021. The proposed Agreement is reasonable and meets the requirements of Section 368.105, F.S. Furthermore, the proposed Agreement benefits CFG customers by enhancing reliability, serving new incremental load, and by avoiding the risks associated with ownership of the facilities. (Hampson)

### **Staff Analysis: Proposed Transportation Service Agreement**

The Joint Petitioners have entered into the proposed Agreement to provide CFG with the additional capacity needed to serve new incremental load in the Winter Haven distribution system. The overall scope of Peninsula's project contemplates the construction of a steel pipeline, a new gate station<sup>5</sup> with FGT, and a new delivery receipt station.

Specifically, Peninsula would construct a gate station connecting the new pipeline to the FGT Avon Park Lateral, south of Winter Haven. Peninsula would also install 7,400 feet of 4-inch steel pipeline beginning from the new gate station and continuing northward to the new delivery receipt station. Peninsula would construct the delivery receipt station in the area of Pollard Road and Logistics Parkway. The Joint Petitioners state that the proposed project would allow CFG to capture new load growth in the area, including a large can manufacturing facility expected to begin operation in the third quarter of 2021. Peninsula stated that it anticipates the construction of the pipeline, gate station with FGT, and the delivery receipt station to be completed in the first quarter of 2022.<sup>6</sup>

The proposed Agreement specifies an initial term of 20 years; with an extension on a year-by-year basis, unless either party gives written notification of termination not less than 90 days prior to expiration. In response to staff's data request, CFG explained it did not issue a formal Request for Proposals. The Joint Petitioners state that FGT has declined to bid for similar projects in previous discussions, citing that constructing and owning laterals like those proposed is not the focus of their expansion activities.<sup>7</sup>

Staff notes that the pipeline along Bomber Road, shown as the solid line on Attachment B, will be constructed and owned by CFG and is therefore not part of the proposed Agreement. In response to staff's data request, the Joint Petitioners explained that the 4-inch medium-density polyethylene pipeline is an extension of CFG's existing distribution main, making CFG the logical choice to construct and own that pipeline.<sup>8</sup>

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<sup>5</sup> A gate station is a facility that depressurizes, odorizes, and measures the natural gas received from transmission pipelines.

<sup>6</sup> Joint Responses to Staff's First Data Request, No. 3 (DN 08276-2021).

<sup>7</sup> Joint Responses to Staff's First Data Request, No. 6 (DN 08276-2021).

<sup>8</sup> Joint Responses to Staff's First Data Request, No. 5 (DN 08276-2021).

### **Negotiated Monthly Reservation Payments to Peninsula**

The Joint Petitioners 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. Staff has reviewed the proposed Agreement's monthly reservation charge as well as the cost estimates for each portion of the project and the breakdown between labor and materials.<sup>9</sup> In discussions with Commission staff, the Joint Petitioners explained that the negotiated monthly reservation charge was determined based on the expected costs associated with the project; including design costs, capital and depreciation costs, operations and maintenance costs, safety and regulatory compliance costs, taxes, and Peninsula's return on equity.

CFG has proposed to recover its payments to Peninsula through its swing service rider mechanism, consistent with other gas transmission pipeline costs incurred by CFG.<sup>10</sup> The swing service rider allows CFG to recover intrastate capacity costs from its transportation customers and is a cents per therm charge that is included in the monthly gas bill of transportation customers.<sup>11</sup> Staff believes that while CFG will incur costs associated with this service expansion, any new load will help spread the costs over a larger customer base. The benefit of Peninsula, as opposed to CFG, constructing the new pipeline is primarily that Peninsula's construction and ownership of the pipeline will protect CFG's ratepayers from undertaking the costs and risks associated with the project.

### **Anticipated System Benefits**

The Joint Petitioners assert that the proposed project is anticipated to provide multiple reliability and operational benefits for CFG. First, the project would introduce additional natural gas supply from FGT to CFG's distribution system approximately mid-way between existing FGT gate stations in Bartow and Winter Haven. Staff agrees this would provide additional reliability for CFG's distribution system, should either current FGT gate station in the Bartow and Winter Haven area become constrained.

Second, the Joint Petitioners explained that completion of Peninsula's proposed project would allow CFG to decrease the pipeline pressure along Spirit Lake Road, eliminating the need for several existing farm taps.<sup>12</sup> CFG has identified eight farm taps for retirement, which would otherwise need to be rebuilt within the next year. By decreasing the pressure along Spirit Lake Road, CFG is able to avoid the cost associated with rebuilding the older equipment. In response to staff's data request, the Joint Petitioners stated that customers served by these farm taps should not anticipate any changes to service reliability.<sup>13</sup> Staff agrees that retiring the aging farm taps would avoid the additional costs associated with rebuilding the equipment and would not impact reliability for customers currently served by them.

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<sup>9</sup> Joint Responses to Staff's First Data Request, No. 1 (DN 08276-2021).

<sup>10</sup> Order No. PSC-2018-0557-TRF-GU, issued November 20, 2018, in Docket No. 20180158-GU, *In re: Joint petition for approval of swing service rider, by Florida Public Utilities Company, Florida Public Utilities Company-Indiantown Division, Florida Public Utilities Company-Fort Meade, and Florida Division of Chesapeake Utilities Corporation.*

<sup>11</sup> CFG does not purchase gas for its customers.

<sup>12</sup> A farm tap is a smaller regulator station used to serve a single family home or small development directly from the natural gas main.

<sup>13</sup> Joint Responses to Staff's First Data Request, No. 4 (DN 08276-2021).

Finally, CFG has identified four larger regulator stations that could also be retired as result of decreasing the pipeline pressure. Two regulator stations to be removed from service are located near high traffic roads and their removal should result in increased public safety. The Joint Petitioners state that the remaining two regulator stations are located in a CFG operations yard and are fed by a higher-pressure pipeline that crosses under Lake Shipp. Staff agrees that retiring the regulator stations would result in reduced maintenance expenses and increased safety in the area. CFG stated that it anticipates the retirement of the farm taps and four regulator stations to be completed by the end of the second quarter of 2022, dependent upon Peninsula's completion of its project.<sup>14</sup>

### **Conclusion**

Based on the petition and the Joint Petitioners' responses to staff's data request, staff recommends that the Commission should approve the proposed Transportation Service Agreement between Peninsula and CFG dated May 7, 2021. The proposed Agreement is reasonable and meets the requirements of Section 368.105, F.S. Furthermore, the proposed Agreement benefits CFG customers by enhancing reliability, serving new incremental load, and by avoiding the risks associated with ownership of the facilities.

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<sup>14</sup> Joint Responses to Staff's First Data Request, No. 3 (DN 08276-2021).

**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. (Osborn)

**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.

PENINSULA PIPELINE COMPANY, INC.  
FIRM TRANSPORTATION SERVICE AGREEMENT

**THIS AGREEMENT** entered into this 7<sup>th</sup> day of May, 2021, by and between Peninsula Pipeline Company, Inc., a corporation of the State of Delaware (herein called "Company"), and the Florida Division of Chesapeake Utilities Corporation, a corporation of the State of Florida (herein called "Shipper").

**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**, Company intends to construct an intrastate pipeline on behalf of Shipper, the origin of which will be a newly constructed gate station with Florida Gas Transmission and the terminus of which will be the end of the existing Central Florida Gas distribution system, allowing for Shipper's distribution meter to be placed into service near the intersection of Pollard Road and Logistics Pkwy (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.

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**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, and shall thereafter be assessed in accordance with the terms and conditions set forth herein.

3.2 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.

3.3 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 or reduced tax rates (including, without limitation, income tax 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.

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 capital expenditures with regard to the service provided by Company under this Agreement, other than any capital expenditures required to provide transportation services to any other customer on the pipeline system serving Shipper's facility, but including, without limitation, mandated relocations of Company's pipeline facilities serving Shipper's facility and costs to comply with any changes in pipeline safety regulations, 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**

PENINSULA PIPELINE COMPANY, INC.  
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**TERM AND TERMINATION**

4.1 Subject to all other provisions, conditions, and limitations hereof, this Agreement shall commence on the notification of in-service, ("Effective Date") and shall continue in full force and effect for an initial period of twenty (20) years from the Effective 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 ("Agreement 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, 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.

**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**

PENINSULA PIPELINE COMPANY, INC.  
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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 hereto 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 Article IX 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**

PENINSULA PIPELINE COMPANY, INC.  
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**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 hereto at the following addresses:

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

Shipper: The Florida Division of Chesapeake Utilities Corporation  
208 Wildlight Avenue  
Yulee, Florida 32097  
Attention:

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 date of its execution by both parties (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

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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 in any way or for any purpose, by virtue of this Agreement, a partner, joint venture, 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

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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 or 3.4 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

PENINSULA PIPELINE COMPANY, INC.  
FIRM TRANSPORTATION SERVICE AGREEMENT

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.

PENINSULA PIPELINE COMPANY, INC.  
FIRM TRANSPORTATION SERVICE AGREEMENT

**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  
The Florida Division of Chesapeake  
Utilities Corporation

By: Jeffrey R. Tietbohl  
Jeffrey R. Tietbohl

By: Shane E. Breakie  
Shane E. Breakie

Title: Vice President & Chief Operating Officer

Title: Vice President

Date: May 14, 2021

Date: May 12, 2021

(To be attested by the corporate secretary if not signed by an officer of the company)

By: \_\_\_\_\_

By: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_, 2021

Date: \_\_\_\_\_, 2021

PENINSULA PIPELINE COMPANY, INC.  
FIRM TRANSPORTATION SERVICE AGREEMENT

EXHIBIT A

TO

FIRM TRANSPORTATION SERVICE

AGREEMENT BETWEEN

PENINSULA PIPELINE COMPANY, INC.

AND

THE FLORIDA DIVISION OF CHESAPEAKE UTILITIES

DATED

May 7, 2021

<u>Description of Transporter Delivery Point(s)</u>	<u>Description of Point(s) of Delivery</u>	<u>MDTQ, in Dekatherms, excluding Fuel Retention</u>
Interconnection with FGT Gate Station in Polk County, Florida and Peninsula Pipeline	See Below	██████ Dt/Day

Total MDTQ (Dekatherms): ██████ Dt/Day

MHTP: 4.17%

Monthly Reservation Charge

The Monthly Reservation Charge will be \$██████ (\$██████/DeKatherm), subject to adjustment pursuant to the terms of this Agreement.

The Company shall provide written notification to Shipper that the pipeline has been completed and establish an in-service date.

Description of Point(s) of Delivery:  
Located on the north side of the intersection of Pollard Road and Logistics Pkwy

