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COMMISSION  
CLERK

November 15, 2013

**BY HAND DELIVERY**

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

Re: New Filing - **Petition by Florida Division of Chesapeake Utilities Corporation for Approval to Extend Environmental Surcharge**

Dear Ms. Cole:

Enclosed for filing on behalf of the Florida Division of Chesapeake Utilities Corporation, please find the original and 15 copies a Petition for Approval to Extend Environmental Surcharge. Also included is the testimony of Michelle Napier on behalf of the Company, along with Exhibit MDN-1. In addition, included with this filing is proposed Second Revised Tariff Sheet No. 100, in clean and legislative versions.

As always, thank you for your assistance with this filing. Please do not hesitate to contact me if you have any questions whatsoever.

Sincerely,



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

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**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

In re: Petition for Approval to Extend  
Environmental Surcharge by the Florida  
Division of Chesapeake Utilities Corporation

Docket No.  
Filed: November 15, 2013

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PETITION FOR APPROVAL TO EXTEND  
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 to extend the environmental surcharge approved by the Commission in Order No. PSC-10-0029-PAA-GU, issued in Docket No. 090125-GU, on January 14, 2010<sup>1</sup>. In support of this request, the Company states:

1. CHPK is a natural gas utility regulated by the Commission in accordance with Chapter 366, Florida Statutes. The Company’s principal offices are 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  
Cheryl Martin, Director/Regulatory Affairs  
1641 Worthington Road, Suite 220  
West Palm Beach, FL 33409-6703

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

## CHESAPEAKE – ENVIRONMENTAL SURCHARGE

3. CHPK will be directly affected by the Commission’s decision on the request set forth herein, because without Commission approval of this request, the surcharge will terminate in January 2014, in accordance with Order No. PSC-10-0029-PAA-GU, in spite of the fact that CHPK continues to incur, and will for the foreseeable future, remediation expenses associated with the clean up of the site at issue.

### Background

4. 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.

5. 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.

6. Specifically, the Comprehensive Environmental Response, Compensation, and Liability Act (“CERCLA”), enacted in 1980, imposed liability on the former and current owners of a contaminated site, holding them responsible for remediation.<sup>2</sup> Thereafter, in June 1985, the Commission asked 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

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



## CHESAPEAKE – ENVIRONMENTAL SURCHARGE

(k/n/a Department of Environmental Protection, hereinafter “DEP”). In 1990, the Company executed a Consent Order with DEP, pursuant to which the Company is required to remediate all environmental impacts associated with the former MGP.

7. 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 of in order to complete the remediation monitoring requirements.<sup>3</sup>

8. 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 \$239,257 in environmental costs, as well as the projected additional costs of \$688,000 to complete the project.<sup>4</sup> 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.

9. 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 has amounted to an additional \$.062 on their monthly bill over the 4-year period.

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<sup>3</sup> 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.

<sup>4</sup> 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).

REMEDICATION STATUS

10. As reflected in the testimony of Michelle Napier, which is submitted with this Petition, recent ground water sampling reflects that the contaminant concentrations at the site continue to decline. The rate of decline indicates, however, that full remediation may not be completed for another two to three years, which will result in the continuation of costs under the existing remediation plan.

11. In addition, on August 7, 2012, DEP issued a letter to the Company indicating that the agency intends to investigate further remedial options, which could include risk-management options, such as natural attenuation and the use of institutional controls, as well as engineering controls. Any such additional risk-management options would likely necessitate an amendment to the Consent Order. If such additional remedial options are included in an amended Consent Order, the Company anticipates that additional environmental costs will be incurred.

12. The Company may also be directed to address impacted soils along the southwest corner of the site, which is an area not currently addressed by the remediation plan. In 2010, the Company obtained approval from DEP to execute a soil excavation plan at the site but is currently evaluating whether less costly alternatives are available. The Company has not, therefore, included any projected costs associated with this potential requirement in the true-up calculations included with this Petition.

13. Similarly, DEP has made initial indications that it may require the Company to also conduct remediation activities on sediments along the shoreline of Lake Shipp, which is adjacent to the site. The Company estimates that any such effort could exceed \$1.0 million and are not necessary. As such, the Company intends to oppose the imposition of any requirement along

## CHESAPEAKE – ENVIRONMENTAL SURCHARGE

these lines and has therefore not included projected costs associated with sediment remediation in the true-up calculations included with this Petition.

### TRUE-UP

14. As reflected in Ms. Napier's testimony, the Company's environmental consultant expects that future remediation costs for the MGP site will be approximately \$443,000, which includes costs associated with actions such as the implementation of institutional controls at the site.

15. For the period January through December 2013, the Company projects an over-recovery of \$62,219 under the currently approved recovery mechanism. The net projected true-up, which includes the projected additional remediation costs of \$443,000, is an under-recovery of \$380,781.

16. As noted, in accordance with the Commission's decision in Docket No. 090125-GU, the Company is currently recovering \$956,257 over four years through a surcharge that recovers \$239,064 annually. Although the Company reflects an over-recovery at this year's end for the \$956,257 previously approved by the Commission, the Company is projected to incur additional significant and legitimate environmental costs before the remediation of the MGP site is completed.

17. In order to recover these additional environmental costs, the Company would like to extend the current surcharge, which as noted is recovering \$239,064 annually, until the projected under-recovery of \$380,781 is fully recovered. The Company anticipates that 20 additional months would be necessary to complete recovery of the projected costs, if the Company is allowed to extend the surcharge seamlessly.

18. The Company believes that this approach will avoid customer confusion that may arise if the surcharge is removed and then reinstated to address these additional projected costs. For the



CHESAPEAKE – ENVIRONMENTAL SURCHARGE

same reason, the Company has not recalculated the surcharge to address the new amount, as a change in the amount on the bill could also promote customer confusion. Thus, as it is today, the surcharge will amount to an additional \$.062 on a residential customer's monthly bill through the end of the proposed extended period.

RELIEF

19. In light of the foregoing and the anticipated under-recovery of environmental compliance costs associated with the MGP site, the Company therefore asks that the Commission approve extension of the surcharge originally approved in Order No. PSC-10-0029-PAA-GU, issued in Docket No. 090125-GU for a period of approximately 20 months, through August 31, 2015, to allow the Company to collect a projected under-recovery of \$380,781.

20. The costs for which the Company seeks recovery through extension of the surcharge are legitimate costs associated with environmental remediation efforts imposed, or expected to be imposed, by DEP and they are costs for which the Commission has allowed recovery in the past.

21. At the end of the extended period, the Company would propose to conduct a true-up to assess and address any over- or under-recovery that may remain.

RESPECTFULLY SUBMITTED this 15th day of November, 2013.

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 15<sup>th</sup> day of November, 2013.

Jennifer Crawford Florida Public Service Commission 2540 Shumard Oak Boulevard Tallahassee, FL 32399-0850 <a href="mailto:jcrawfor@psc.state.fl.us">jcrawfor@psc.state.fl.us</a>	J.R. Kelly/P. Christensen Office of Public Counsel c/o The Florida Legislature 111 W. Madison Street, Room 812 Tallahassee, FL 32399-1400 <a href="mailto:Christensen.patty@leg.state.fl.us">Christensen.patty@leg.state.fl.us</a>
Cheryl Martin Florida Public Utilities Company 1641 Worthington Road, Suite 220 West Palm Beach, FL 33409 <a href="mailto:Cheryl_Martin@fpuc.com">Cheryl_Martin@fpuc.com</a>	

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



TESTIMONY  
AND  
EXHIBIT MDN-1  
OF  
MICHELLE D. NAPIER

On Behalf of the  
Florida Division of Chesapeake Utilities Corporation



1 of a former manufactured gas plant (MGP) site in Winter Haven, Florida. My  
2 testimony will provide a current estimate of the remediation costs at the site and  
3 establish the Environmental "true-up" collection amount, based on actual and  
4 projected data.

5 Q. Did you complete the schedules filed by your Company?

6 A. Yes.

7 Q. Which set of schedules has your company completed and filed?

8 A. The Company has prepared and filed in composite Exhibit MDN-1, Schedules A and  
9 B that support the true-up and need to extend the Environmental surcharge.

10 Q. What is the current status of the cleanup efforts at the site?

11 A. The Winter Haven site is located on the eastern shoreline of Lake Shipp, in Winter  
12 Haven, Florida. Pursuant to a consent order entered into with Florida Department of  
13 Environmental Protection (FDEP), we are obligated to assess and remediate  
14 environmental impacts at this former MGP site. The recent groundwater sampling  
15 results show a continuing reduction in contaminant concentrations from the treatment  
16 system, which has been in operations since 2002. Currently, we predict that remedial  
17 action objectives could be met in approximately two to three years for the area being  
18 treated by the remediation system. On August 7, 2012, FDEP issued a letter  
19 discussing the need to evaluate further remedial options, which could incorporate risk-  
20 management options, including natural attenuation and the use of institutional and  
21 engineering controls. Modifications to the existing consent order and the remedial  
22 action plan could be required to incorporate risk-management options into the remedy  
23 for the site. A response letter was submitted to FDEP on May 7, 2013, and the most  
24 recent groundwater monitoring report was submitted on June 17, 2013. An additional  
25 comment letter, dated September 16, 2013, was received from FDEP and is being



1 addressed. If modifications to the existing consent order and remedial action plan are  
2 required, there will be future remediation costs. The current treatment system at the  
3 Winter Haven site does not address impacted soils in the southwest corner of the site.  
4 In 2010, we obtained conditional approval from FDEP for a soil excavation plan;  
5 however, because the costs associated with shoreline stabilization and dewatering are  
6 likely to be substantial, alternatives to this excavation plan are being evaluated. FDEP  
7 has indicated that we may be required to remediate sediments along the shoreline of  
8 Lake Shipp, immediately west of the site. Based on studies performed to date, we  
9 object to FDEP's suggestion that the sediments have been adversely impacted by the  
10 former operations of the MGP. Our early estimates indicate that some of the  
11 corrective measures discussed by FDEP could cost as much as \$1.0 million. We  
12 believe that corrective measures for the sediments are not warranted and intend to  
13 oppose any requirement that we undertake corrective measures in offshore sediments.  
14 We have not recorded a liability for sediment remediation, as the final resolution of  
15 this matter cannot be predicted at this time.

16 Q. What are the projected additional costs related to modifications of the existing consent  
17 order and remedial action plan?

18 A. As previously mentioned the modifications to the existing consent order and remedial  
19 action plan could incorporate risk-management options, including natural attenuation  
20 and the use of institutional and engineering controls. Based on the projection from the  
21 environmental consultant, the Company expects future remediation costs to be  
22 \$443,000, which includes \$100,000 to implement additional actions, such as  
23 institutional controls, at the site. This amount excludes the issue of impacted soils in  
24 the southwest corner of the site as well as any corrective measures to remediate  
25 sediments along the shoreline of Lake Shipp, immediately west of the site.

- 1 Q. What is the projected Environmental true-up amount for the period January through  
2 December 2013?
- 3 A. The projected Environmental true-up amount is an over-recovery of \$62,219 for the  
4 period January through December 2013.
- 5 Q. What is the total net projected Environmental true-up amount to be collected from  
6 customers?
- 7 A. As shown on Schedule A, the net projected true-up is an under-recovery of \$380,781,  
8 which includes the additional remediation costs of \$443,000.
- 9 Q. Why are you seeking an extension of Environmental surcharge?
- 10 A. The Company is currently recovering \$956,257, approved in the Company's 2009  
11 Rate Case, Docket No. 090125-GU, through a surcharge which is due to expire at the  
12 end of this year, December 2013. CFG is projected to have an over-recovery at  
13 December 2013 but due to the expected additional remediation costs of \$443,000  
14 related to modifications of the existing consent order, the Company is projecting that  
15 we will not fully recover these additional costs. Therefore, the Company would like to  
16 extend the surcharge to insure that we receive full recovery and are sufficiently  
17 reserved for these additional remediation costs.
- 18 Q. Have you calculated revised Environmental surcharge factors to recover the projected  
19 under-recovery due to these additional costs?
- 20 A. No, the Company would like to continue using the Environmental surcharges  
21 approved in the Company's 2009 Rate Case, Docket No. 090125-GU, which is  
22 collecting \$239,064 per year.
- 23 Q. How long would you like to extend the use of the Environmental surcharge factors  
24 currently in effect?
- 25 A. The Company would like to extend the use of the surcharge until the projected under-

1 recovery of \$380,781 is collected. With recovery of \$239,064 per year, the Company  
2 anticipates that it will need the extension for approximately twenty (20) months. See  
3 Schedule B.

4 Q. What should be the effective date of the Environmental surcharge factors for billing  
5 purposes?

6 A. The Environmental surcharge factors should remain in effect for all meter readings  
7 during the period of January 1, 2014 through August 31, 2015.

8 Q. Does this conclude your testimony?

9 A. Yes.



FLORIDA DIVISION OF CHESAPEAKE UTILITIES CORPORATION  
 Environmental Analysis

Schedule A  
 Exhibit No. \_\_\_\_\_  
 (MDN-1)

	<u>12/31/2012</u>	<u>Projected @12/31/2013</u>	
Asset:			
Reg Asset	1720 \$ 1,977,000	\$ 1,977,000	
Customer Contrib.	1729 \$ (1,799,933)	\$ (2,038,997)	
	\$ 177,067	\$ (61,997)	
Liability:			
Reg Liability	2815 \$ (1,977,000)	\$ (1,977,000)	
Deferred Cost	2810 \$ 1,807,337	\$ 1,976,778	
	\$ (169,663)	\$ (222)	
(Over)/Under Recovery	<u>\$ 7,404</u>	<u>\$ (62,219)</u>	
Additional Remediation Cost		<u>\$ 443,000</u>	
(Over)/Under Recovery		<u>\$ 380,781</u>	

FLORIDA DIVISION OF CHESAPEAKE UTILITIES CORPORATION  
 Summary of Amounts Collected Through Rates and Cost Incurred for  
 the Remediation of the Manufactured Gas Plant Site

Schedule B  
 Exhibit No. \_\_\_\_\_  
 (MDN-1)

<u>Date</u>	<u>Amounts</u> <u>Collected</u>	<u>Costs</u> <u>Incurred</u>	<u>Over(Under)</u> <u>Collected</u>
Beg Bal @ 12/31/1999			\$ 504,710
12/31/2000	\$ 71,114	\$ 17,443	\$ 558,381
12/31/2001	\$ 71,114	\$ 106,773	\$ 522,722
12/31/2002	\$ 71,114	\$ 318,663	\$ 275,173
12/31/2003	\$ 71,114	\$ 137,185	\$ 209,102
12/31/2004	\$ 71,114	\$ 97,782	\$ 182,434
12/31/2005	\$ 71,114	\$ 96,117	\$ 157,431
12/31/2006	\$ 71,114	\$ 138,671	\$ 89,874
12/31/2007	\$ 71,114	\$ 176,438	\$ (15,450)
12/31/2008	\$ 71,114	\$ 323,921	\$ (268,257)
12/31/2009	\$ 71,114	\$ 157,020	\$ (354,163)
12/31/2010	\$ 227,646	\$ 173,263	\$ (299,780)
12/31/2011	\$ 237,578	\$ 103,494	\$ (165,696)
12/31/2012	\$ 243,074	\$ 84,782	\$ (7,404)
12/31/2013	\$ 239,064	\$ 169,441	\$ 62,219
12/31/2014	\$ 239,064	\$ 443,000	\$ (141,717)
8/31/2015	\$ 141,717	\$ -	\$ -

TARIFF SHEET

SECOND REVISED SHEET NO. 100

FLORIDA DIVISION OF CHESAPEAKE UTILITIES  
CORPORATION



RATE SCHEDULES  
MONTHLY RATE ADJUSTMENTS  
Rate Schedule MRA

3. TEMPORARY ENVIRONMENTAL SURCHARGE:

Applicability:

All Consumers receiving Transportation Service from the Company and are assigned to or have selected rate schedules FTS-A, FTS-B, FTS-1, FTS-2, FTS-2.1, FTS-3, FTS-3.1, FTS-4, FTS-5, FTS-6, FTS-7, FTS-8, FTS-9, FTS-10, FTS-11, and FTS-12.

The monthly Firm Transportation Service to a Consumer in any billing period shall be adjusted as follows to recover the Company's cost related to the environmental remediation of its manufactured gas plant site.

The cost recovery factor for the period from January 1, 2014 through August 31, 2015 for each rate schedule is as follows:

Rate Schedule	Classification of Service	Dollars per bill
FTS-A	< 130 therms	\$ 0.37
FTS-B	> 130 up to 250 therms	\$ 0.49
FTS-1	> 0 up to 500 therms	\$ 0.62
FTS-2	>500 up to 1,000 therms	\$ 1.04
FTS-2.1	>1,000 up to 2,500 therms	\$ 1.86
FTS-3	>2,500 up to 5,000 therms	\$ 3.44
FTS-3.1	>5,000 up to 10,000 therms	\$ 5.58
FTS-4	>10,000 up to 25,000 therms	\$ 9.55
FTS-5	>25,000 up to 50,000 therms	\$ 17.47
FTS-6	>50,000 up to 100,000 therms	\$ 28.85
FTS-7	>100,000 up to 200,000 therms	\$ 45.48
FTS-8	>200,000 up to 400,000 therms	\$ 79.51
FTS-9	>400,000 up to 700,000 therms	\$127.43
FTS-10	>700,000 up to 1,000,000 therms	\$186.61
FTS-11	>1,000,000 up to 2,500,000 therms	\$332.54
FTS-12	>2,500,000 up to 12,500,000 therms	\$598.88

Issued by: Michael P. McMasters, President  
Chesapeake Utilities Corporation

Effective:

RATE SCHEDULES  
MONTHLY RATE ADJUSTMENTS  
Rate Schedule MRA

3. TEMPORARY ENVIRONMENTAL SURCHARGE:

Applicability:

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All Consumers receiving Transportation Service from the Company and are assigned to or have selected rate schedules FTS-A, FTS-B, FTS-1, FTS-2, FTS-2.1, FTS-3, FTS-3.1, FTS-4, FTS-5, FTS-6, FTS-7, FTS-8, FTS-9, FTS-10, FTS-11, and FTS-12.

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The monthly Firm Transportation Service to a Consumer in any billing period shall be adjusted as follows to recover the Company's cost related to the environmental remediation of its manufactured gas plant site.

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The cost recovery factor for the period from January 1, 2014, through August 31, 2015, for each rate schedule is as follows:

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Rate Schedule	Classification of Service	Dollars per bill
FTS-A	< 130 therms	\$ 0.37
FTS-B	> 130 up to 250 therms	\$ 0.49
FTS-1	> 0 up to 500 therms	\$ 0.62
FTS-2	>500 up to 1,000 therms	\$ 1.04
FTS-2.1	>1,000 up to 2,500 therms	\$ 1.86
FTS-3	>2,500 up to 5,000 therms	\$ 3.44
FTS-3.1	>5,000 up to 10,000 therms	\$ 5.58
FTS-4	>10,000 up to 25,000 therms	\$ 9.55
FTS-5	>25,000 up to 50,000 therms	\$ 17.47
FTS-6	>50,000 up to 100,000 therms	\$ 28.85
FTS-7	>100,000 up to 200,000 therms	\$ 45.48
FTS-8	>200,000 up to 400,000 therms	\$ 79.51
FTS-9	>400,000 up to 700,000 therms	\$127.43
FTS-10	>700,000 up to 1,000,000 therms	\$186.61
FTS-11	>1,000,000 up to 2,500,000 therms	\$332.54
FTS-12	>2,500,000 up to 12,500,000 therms	\$598.88

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Issued by: Michael P. McMasters, President  
Chesapeake Utilities Corporation

Effective: