

State of Florida



Public Service Commission

CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD
TALLAHASSEE, FLORIDA 32399-0850

-M-E-M-O-R-A-N-D-U-M-

DATE: November 22, 2016

TO: Office of Commission Clerk (Stauffer)

FROM: Division of Accounting and Finance (Passett, Mouring) *ALM*
Office of the General Counsel (Leathers) *CR1018*

RE: Docket No. 160153-GU – Petition for approval of final true-up of environmental surcharge by Florida Division of Chesapeake Utilities Corporation.

AGENDA: 12/06/16 – Regular Agenda – Proposed Agency Agenda – Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Administrative

CRITICAL DATES: None

SPECIAL INSTRUCTIONS: None

Case Background

The Florida Division of Chesapeake Utilities Corporation (Chesapeake or Company) is a natural gas utility and its principal offices are located in Fernandina Beach, Florida. The Company also owns property in Winter Haven, Florida upon which a former site of a manufactured gas plant (MGP) was located.

In 1990, Chesapeake executed a Consent Order with the Florida Department of Environmental Protection (DEP) that required the Company to remediate all environmental impacts associated with the former MGP site. On May 19, 2001, DEP approved the Company's proposal to implement air spurge/soil vapor extraction as a remedy for addressing the contaminants present in areas of the site. In 2008, the Company performed excavation and removal of petroleum-tainted soil. On June 10, 2009, Polk County notified the Company that additional sampling had to be performed to complete the remediation monitoring requirements.

In its 2009 rate case, the Company addressed the increasing costs for remediation of the site and sought Commission approval of a surcharge to allow Chesapeake to recover its environmental costs associated with the project.¹ On January 14, 2010, the Commission approved a 4-year fixed surcharge of \$0.62 on a typical residential customer's monthly bill.

On January 27, 2014, the Commission approved an extension of the Company's Environmental Surcharge.² This extended the fixed surcharge by 20 months and allowed Chesapeake to recover an additional \$380,781 related to remediation activities of the Company's former MGP site in Winter Haven, Florida.

On June 17, 2016, the Company filed a petition with the Commission, seeking approval to establish a regulatory liability related to the Environmental Surcharge to address the Company's expected future remediation costs. The Company also filed an affidavit from Michele Ruth, a licensed Professional Engineer engaged by Chesapeake to manage and oversee the remediation operations, and Company witness testimony of Michelle Napier in support of its request.

This recommendation addresses Chesapeake's petition for approval to establish a regulatory liability related to funds collected through the Environmental Surcharge. The Commission has jurisdiction pursuant to Sections 366.04(3), 366.041, and 366.06, Florida Statutes (F.S.).

¹ Order No. PSC-10-0029-PAA-GU, pp. 21-24, issued January 14, 2010, in Docket No. 090125-GU, *In re: Petition for increase in rates by Florida Division of Chesapeake Utilities Corporation.*

² Order No. PSC-14-0052-PAA-GU, issued January 27, 2014, in Docket No. 130273-GU, *In re: Petition for approval to extend environmental surcharge by Florida Division of Chesapeake Utilities Corporation.*

Discussion of Issues

Issue 1: Should the Commission approve Chesapeake's petition to establish a regulatory liability related to funds collected through the Environmental Surcharge in order to address the expected future remediation costs?

Recommendation: Yes. The Commission should approve Chesapeake's petition to retain the over-collected balance as a regulatory liability in Account 254 for purposes of addressing the future expected remediation costs. The status of the remediation efforts and costs should be subject to review in the Company's next rate case. (Passett)

Staff Analysis: When Chesapeake's Environmental Surcharge was established in its 2009 rate case, an under-collected balance of \$268,257 was established for related environmental remediation costs.³ From January 1, 2009 through December 31, 2013, the Company recovered \$1,027,621 and incurred \$642,949 in remediation expenses. When its surcharge was set to expire, the Company had an over-collected balance of \$116,415 (\$1,027,621 - \$268,257 - \$642,949).

At the end of the surcharge period (December 31, 2013), Chesapeake forecasted to incur an additional \$443,000 in related environmental remediation. A 20-month extension of the Environmental Surcharge was approved on January 27, 2014,⁴ to allow the Company to recover remediation costs. During the surcharge extension period, the Company recovered \$419,554 and incurred \$144,199 in remediation expenses, which created an incremental over-collected balance of \$275,355 (\$419,554 - \$144,199). The total over-collected balance, from the original surcharge through the end of the surcharge extension, is \$391,770 (\$116,415 + \$275,355).

Chesapeake's most recent forecast reflected that it will incur \$425,000 in related environmental remediation costs over the next four to five years.⁵ As of July 27, 2016, the Company stated that it incurred approximately \$78,340⁶ in remediation costs since the surcharge extension's expiration date (August 31, 2015), leaving an approximate over-collected balance of \$313,430 (\$391,770 - \$78,340). Staff would note that both the under-collections and over-collections appear to be due to timing issues with forecasted remediation expenses.

The funds collected from the original surcharge and the surcharge extension, along with all costs incurred and the cumulative over/(under) collected funds are detailed below in Table 1-1.

³ Order No. PSC-10-0029-PAA-GU, pp. 21-24, issued January 14, 2010, in Docket No. 090125-GU, *In re: Petition for increase in rates by Florida Division of Chesapeake Utilities Corporation*.

⁴ The surcharge extension period spanned from January 1, 2014 through August 31, 2015.

⁵ Document No. 05629-16, filed July 27, 2016, Response to Request No. 3.

⁶ Document No. 05629-16, filed July 27, 2016, Attachment A, in Response to Request No. 5.

**Table 1-1
 Chesapeake Surcharge Summation
 July 27, 2016**

Year		Amount Collected	Costs Incurred	Cumulative Over/(Under) Collected
	Per Order PSC-10-0029-PAA-GU			
12/31/2008	Beginning Balance		\$ 268,257	\$ (268,257)
2009		\$ 71,114	\$ 157,020	\$ (354,163)
2010		\$ 227,646	\$ 173,263	\$ (299,780)
2011		\$ 237,578	\$ 103,494	\$ (165,696)
2012		\$ 243,074	\$ 84,782	\$ (7,404)
2013		\$ 248,209	\$ 124,390	\$ 116,415
	Total for Surcharge	\$ 1,027,621	\$ 911,206	\$ 116,415
	Per Order PSC-14-0052-PA-GU			
2014		\$ 261,930	\$ 106,462	\$ 155,468
01/01/2015 - 08/31/2015		\$ 157,624	\$ 37,737	\$ 275,355
	Total for Surcharge Extension	\$ 419,554	\$ 144,199	\$ 275,355
	Post Surcharge Extension			
09/01/2015-12/31/2015		\$ -	\$ 19,289	\$ (19,289)
01/01/2016-06/30/2016		\$ -	\$ 59,050	\$ (59,050)
	Total for Post Surcharge Extension	\$ -	\$ 78,340	\$ (78,340)
	Total	\$ 1,447,175	\$ 1,133,745	\$ 313,430

Sources: Direct Testimony of Michelle D. Napier, June 17, 2016, Docket No. 160153-GU, In re: Petition for approval of final true-up of environmental Surcharge by Florida Division of Chesapeake Utilities Corporation and FPSC Document No. 05629-16, Attachment A, in Response to Request No. 5

Chesapeake proposed that it retain the over-collected balance in Account 254 as a regulatory liability, in order to address future expected remediation costs. Pursuant to the Uniform System of Accounts for Natural Gas Companies as found in the Code of Federal Regulations, Title 18, Subchapter F, Part 201, Account 254, other regulatory liabilities, shall include amounts that must be established by credits that would have been included in net income or accumulated other comprehensive income but for it being probable that: such items will be included in a different period for purposes of developing the Company's authorized rates; or customer refunds, not

provided for in other accounts. Staff agrees with Chesapeake that the Company's over-collected balance meets the criteria required to qualify as a regulatory liability in Account 254, as this balance is not includible in other accounts and would have been included in net income, if it were not subject to customer refund.

Chesapeake stated that it has no ongoing mechanism to recover the additional costs related to the environmental remediation, and without a mechanism in place to collect funds for the upcoming expenses, the Company asserted that refunding the over-collected balance would cause it certain financial harm. In contrast, the Company stated that if it were allowed to retain the over-collected funds, it would be able to recover the remediation expenses, and the status of the remediation efforts and amount held to address such efforts would still be subject to review in the next rate proceeding.

Chesapeake asserted that retaining the over-collected balance would ensure that the Company is well positioned to address additional remediation costs consistent with the Commission's intent set forth in the orders establishing and extending the Environmental Surcharge. In approving and extending the Environmental Surcharge in previous orders, the Commission allowed Chesapeake to raise the funds necessary to cover these forecasted environmental expenses, as the Company was not recovering the costs in base rates necessary to recover its expected costs. Staff agrees with Chesapeake that if the Commission were to require the Company to issue a refund, it would cause financial harm when the forecasted costs that the surcharge was meant to recover are incurred. Staff believes that allowing Chesapeake to retain the over-collected funds in order to cover the forecasted environmental remediation expenses would prevent the Company from facing unnecessary financial harm. With Chesapeake incurring approximately \$78,340 of related expenses between September 2015 and June 2016, and the remediation process forecasted to last another four to five years, staff believes that this is a timing issue and it would be appropriate for the Company to retain the over-collected balance in order to address future anticipated remediation costs. Therefore, staff recommends that the Commission approve Chesapeake's petition to retain the over-collected balance as a regulatory liability in Account 254 for purposes of addressing the future expected remediation costs with the status of the remediation efforts and remainder amounts, if any, being subject to review in the Company's next rate proceeding.

Issue 2: Should this docket be closed?

Recommendation: If no person whose substantial interests are affected by the proposed agency action files a protest within 21 days of the issuance of the order, this docket should be closed upon the issuance of a consummating order. (Leathers)

Staff Analysis: At the conclusion of the protest period, if no protest is filed this docket should be closed upon the issuance of a consummating order.