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Commission Conference Agenda
August 5, 2025

# Item 1

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:** July 24, 2025

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

**FROM:** Office of Industry Development and Market Analysis (Day, Mallow, Fogleman) CH
Office of the General Counsel (Farooqi, Imig) AEH

**RE:** Application for Certificate of Authority to Provide Telecommunications Service

**AGENDA:** 8/5/2025 - Consent Agenda - Proposed Agency Action - Interested Persons May Participate

**SPECIAL INSTRUCTIONS:** None

Please place the following Applications for Certificate of Authority to Provide Telecommunications Service on the consent agenda for approval.

| DOCKET NO. | COMPANY NAME | CERT. NO. |
|---|---|---|
| 20250086-TX | Fiber AssetCo LLC | 9004 |
| 20250090-TX | Forged Fiber 37, LLC | 9005 |

The Commission is vested with jurisdiction in this matter pursuant to Section 364.335, Florida Statutes. Pursuant to Section 364.336, Florida Statutes, certificate holders must pay a minimum annual Regulatory Assessment Fee if the certificate is active during any portion of the calendar year. A Regulatory Assessment Fee Return Notice will be mailed each December to the entities listed above for payment by January 30.

# Item 2

FILED 7/24/2025
DOCUMENT NO. 06820-2025
FPSC - COMMISSION CLERK

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:** July 24, 2025

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

**FROM:** Office of the General Counsel (Sapoznikoff) *SMC*
Division of Economics (Hampson, Kelley) *EJD*

**RE:** Docket No. 20250081-EU – Petition for declaratory statement, or in the alternative, petition for variance from or waiver of the individual metering requirement of Rule 25-6.049(5) and (6), F.A.C., by 20 North Oceanside Owner, LLC.

**AGENDA:** 08/05/25 – Regular Agenda – Decision on Declaratory Statement as to Issue No. 1 – Proposed Agency Action as to Issue No. 2 – Participation is at the Discretion of the Commission as to Issue No. 1 – Interested Persons May Participate as to Issue No. 2

**COMMISSIONERS ASSIGNED:** All Commissioners

**PREHEARING OFFICER:** Graham

**CRITICAL DATES:** 08/21/25 (Final Order on Request for Declaratory Statement Must be Issued by this date, pursuant to Section 120.565(3), Florida Statutes, and Request for Variance or Waiver is Deemed Approved if Not Granted or Denied by this date, pursuant to Section 120.542(8), Florida Statutes)

**SPECIAL INSTRUCTIONS:** None

## Case Background

On May 23, 2025, 20 North Oceanside Owner, LLC (20 North), filed a petition for declaratory statement (Petition), asking the Commission to declare that based on the facts presented "20 North is not required to individually meter the 296 condo-hotel units in Tower 2 because it meets

the exceptions to the individual meter rule found in Rule 25-6.049(5), [Florida Administrative Code (F.A.C.)]." In the alternative, 20 North seeks a variance from or waiver of the individual metering requirements of Rule 25-6.049, F.A.C., thereby allowing it to master-meter the Tower 2 condo-hotel units. 20 North is in the service territory for Florida Power & Light Company (FPL).

The Commission rule addressing metering requirements, Rule 25-6.049, F.A.C., generally requires individual metering of electricity use for individual occupancy units in residential and commercial buildings. However, the rule also establishes certain exemptions to the individual metering requirement and sets forth the criteria for those exemptions. For ease of reference, a copy of Rule 25-6.049, F.A.C., is appended to this recommendation as Attachment A.

20 North asserts that although Tower 2 is a condominium, it will operate in a manner similar to that of a resort hotel. 20 North's Petition seeks exemption from the individual metering requirement under either of the exceptions provided in paragraphs (5)(d) or (5)(g) of Rule 25-6.049, F.A.C.

- Paragraph (5)(d) of the rule indicates that individual electric meters are not required "[f]or lodging establishments such as hotels, motels, and similar facilities which are rented, leased, or otherwise provided to guests by an operator providing overnight occupancy as defined in paragraph (8)(b)."

- Paragraph (5)(g) of the rule indicates that individual electric meters are not required for condominiums that meet the following criteria:

  1. The declaration of condominium requires that at least 95 percent of the units are used solely for overnight occupancy as defined in paragraph (8)(b) of this rule;

  2. A registration desk, lobby and central telephone switchboard are maintained; and

  3. A record is kept for each unit showing each check-in and check-out date for the unit, and the name(s) of the individual(s) registered to occupy the unit between each check-in and check-out date.

Paragraph (8)(b) of Rule 25-6.049, F.A.C., defines overnight occupancy as "use of an occupancy unit for a short term such as per day or per week where permanent residency is not established."

In addition, if the development is a condominium, subsection (6) of the rule requires both an initial and on-going annual attestations from the owner or developer (customer) to the utility provider that:

> [T]he criteria in paragraph (5)(g) and in this subsection have been met, and that any cost of future conversion to individual metering will be the responsibility of the customer, consistent with subsection (7) of this rule.

Finally, Rule 25-6.049(9)(a), F.A.C., states, in pertinent part:

> Where individual metering is not required under subsection (5) and master metering is used in lieu thereof, reasonable apportionment methods . . . may be used by the customer of record or the owner of such facility solely for the purpose of allocating the cost of the electricity billed by the utility.

## 20 North's Statement of Facts

In its Petition, 20 North states that although the planned development includes two connected towers, it only seeks the declaratory statement, or variance/waiver, for Tower 2. Tower 1 is to be developed as a residential condominium project with individual metering, whereas Tower 2 is to be developed as a condo-hotel for which 20 North seeks master-metering. 20 North states that ownership of both parcels will be pursuant to Chapter 718, Florida Statutes (F.S.), which pertains to Condominiums. However, according to 20 North, operation of Tower 2 will be pursuant to Chapter 509, F.S., which pertains to Lodging and Food Service Establishments. According to the Petition, Tower 2 must be registered with Department of Business Regulation as a hotel under Section 509.242(1)(a), F.S. Because it asserts that "[t]he Florida Department of Revenue and the Department of Business Regulation will treat Tower 2 like a commercial hotel based on its method of operation," 20 North seeks master-metering for Tower 2 as that is available to "other similar resort hotels."[1]

20 North asserts that the Purchase Agreement for the Tower 2 units specifies that none of the units "may be occupied as a permanent dwelling unit or residence." The Petition asserts that Tower 2 is zoned for 303 units, but will only contain 296 units, none of which are allowed to be used as a permanent residence. The Petition further states that the owners of the Tower 2 units may not occupy their units for more than 30 consecutive days and no more than a total of 180 days in any consecutive 12 month period, and that the primary purpose of the Tower 2 units is a "visitor accommodation use." The Petition also states that the Tower 2 units will be used for "transient" occupancy.

The Petition also states that the applicable zoning requirements for Tower 2 require it to be managed pursuant to a unified management operation plan for rental activities. The Petition states that the management company "will be responsible for staffing 24 hour per day operations, including front desk personnel." According to the Petition, the telephone service within Tower 2 will operate through a central switchboard controlled by management. The Petition asserts that Hotel management will also be responsible for "record keeping . . . for each unit showing the check-in and check-out date along with the name(s) of the individual(s) registered to occupy the unit."

The Petition asserts that all utilities (water, sewer, and electrical) will be billed directly to the condominium association and paid for through assessments and that those "costs will be apportioned as common expenses in the same manner as other common expenses on a pro-rata share based on square footage of the unit as compared to the total square footage of all units."

[1]Staff notes that individual electric metering is typically billed at a residential rate. In contrast, master-metering usage is measured using a single, utility-owned meter for billing and service is billed at the lower, commercial rate. *See Florida Power Corp. v. Mayo*, 203 So. 2d 614, 615 (Fla. 1967).

## Procedural Matters

The Petition was filed on May 23, 2025. Pursuant to Sections 120.542 and 120.565, F.S., and Rule 28-105.0024, F.A.C., a Notice of Declaratory Statement and a Notice of Variance or Waiver were published in the May 29, 2025, edition of the Florida Administrative Register to inform substantially affected persons of the Petition, and notify them of the right to intervene or submit comments.

Pursuant to Section 120.565(3), F.S., a final order on a request for a declaratory statement must be issued within 90 days of the filing of the Petition. Pursuant to Section 120.542(8), F.S., a request for a variance or waiver must be granted or denied within 90 days after receipt of the original petition, the last item of timely requested additional material, or the petitioner's written request to finish processing the petition. Thus, the Commission must issue an order on the petition for declaratory Statement, or either grant or deny the alternative petition for a rule waiver/variance by August 21, 2025.

No one moved to intervene in this docket and no one filed comments.

This recommendation addresses whether the Commission should grant 20 North's Petition for Declaratory Statement or, in the alternative, grant the petition for variance or waiver of Rule 25-6.049, F.A.C. The Commission has jurisdiction to consider this matter pursuant to Sections 120.542 and 120.565, and Chapter 366, F.S.

## Discussion of Issues

***Issue 1:*** Should the Commission grant 20 North's Petition for Declaratory Statement?

***Recommendation:*** No. The Commission should deny 20 North's Petition for Declaratory Statement. Under the facts presented by 20 North, Tower 2 does not satisfy either of the applicable exceptions to the individual meter rule found in Rule 25-6.049(5), F.A.C.

### *Staff Analysis:*

### Law Governing Petitions for Declaratory Statement

Section 120.565, F.S., sets forth the necessary elements of a petition for declaratory statement and provides:

> (1) Any substantially affected person may seek a declaratory statement regarding an agency's opinion as to the applicability of a statutory provision, or of any rule or order of the agency, as it applies to the petitioner's particular set of circumstances.
>
> (2) The petition seeking a declaratory statement shall state with particularity the petitioner's set of circumstances and shall specify the statutory provision, rule, or order that the petitioner believes may apply to the set of circumstances.

Rule 28-105.001, F.A.C., states the purpose of a declaratory statement:

> A declaratory statement is a means for resolving a controversy or answering questions or doubts concerning the applicability of statutory provisions, rules, or orders over which the agency has authority. A petition for declaratory statement may be used to resolve questions or doubts as to how the statutes, rules, or orders may apply to the petitioner's particular circumstances. A declaratory statement is not the appropriate means for determining the conduct of another person.

If a petitioner meets the filing requirements provided by Rule 28-105.002, F.A.C., an agency must issue a declaratory statement.

Rule 28-105.003, F.A.C., provides the requirements for how agencies must dispose of declaratory statements and states that an agency may rely on the statements of fact set out in the petition without taking any position with regard to the validity of the facts. Staff recommends that the Commission rely on the facts as presented by 20 North, without taking a position with regard to the validity of the facts it presented.

### 20 North's Requested Declaratory Statement

20 North asks the Commission to issue the following affirmative declaratory statement:

> 20 North is not required to individually meter the 296 condo-hotel units in Tower 2 because it meets the exceptions to the individual meter rule found in Rule 25-6.049(5), F.A.C.

### *Threshold Requirements of Petition*

Under Section 120.565(1)-(2), F.S., a petition must "state with particularity the petitioner's set of circumstances" and specify the statute, order, or rule that the petitioner believes is applicable, as well as show the petitioner is substantially affected. 20 North's Petition contains specific details about the property at issue and identifies Rule 25-6.049(5), F.A.C., as the rule that applies to its set of circumstances. 20 North's Petition also alleges it is substantially affected because if it is required to individually meter its condo-hotel units in Tower 2 it will incur 20 to 30 percent more in electric costs than what resort hotels would incur. 20 North asserts this would place it at a competitive disadvantage as compared to other public lodging establishments. Accordingly, 20 North meets the threshold requirements to seek a declaratory statement.

### *Application of Rule 25-6.049, F.A.C.*

The purpose of a declaratory statement is to address the applicability of statutory provisions, orders, or rules of an agency to the petitioner's particular circumstances.[2] A declaratory statement enables members of the public to resolve ambiguities of law and obtain definitive, binding advice as to the applicability of agency law to a particular set of facts. Accepting the facts alleged by 20 North to be true, staff does not believe that those facts entitle 20 North to the requested declaratory statement.

Although the Petition refers to the units in Tower 2 as a condo-hotel, that term is not used in Rule 25-6.049, F.A.C., to reference which types of occupancy units are subject to individual electric metering and which ones may have master-metering. Rather, pertinent to this case, application of the exceptions to individual metering under Rule 25-6.049(5), F.A.C., depends on whether the property is a hotel, motel, or similar facility providing overnight occupancy,[3] or a condominium in which at least 95 percent of the units are used solely for overnight occupancy, there is a central registration desk, lobby and telephone switchboard, and records are kept showing the check-in and check-out dates for the unit, along with the name(s) of the individual(s) registered to occupy the units during those times.[4] 20 North asserts it is entitled to an exemption either as a hotel (or similar facility) or as a qualifying condominium. Integral to both exceptions is the requirement that occupancy of the residential units be for "overnight occupancy." Based on the facts presented by 20 North, staff finds that the Tower 2 units are not used for "overnight occupancy," which is defined by paragraph (8)(b) of the rule as "use of an occupancy unit for a short term such as per day or per week where permanent residency is not established."

The Petition makes several assertions that the Tower 2 units cannot be used as a permanent residence. The Petition further states that *owners* of the Tower 2 units may not occupy their units for more than 30 consecutive days and no more than a total of 180 days in any consecutive 12 month period. With regard to the occupancy of non-owners, the Petition and its accompanying documents use terms like "visitor accommodation use" and "transient" occupancy. Neither of those terms are used in Rule 25-6.049, F.A.C., and neither the Petition, its attachments, nor the responses from 20 North define those terms nor make even a cursory assertion that the Tower 2 units will be provided for "overnight occupancy" only. Given that 20 North asserts it will be

[2] Rule 28-105.001, F.A.C.
[3] Rule 25-6.049(5)(d), F.A.C.
[4] Rule 25-6.049(5)(g)1., F.A.C.

registered as a hotel under Chapter 509, F.S., staff notes that Section 509.013(4)(a)1., F.S., defines a "transient public lodging establishment" as one is which occupancy is limited to periods of less than which is 30 days or 1 calendar month, whichever is shorter.

The Florida Supreme Court has explained that the "words of a governing text are of paramount concern, and what they convey, in their context, is what the text means." *Lab. Corp. of Am. v. Davis*, 339 So. 3d 318, 323 (Fla. 2022). "Under the whole-text canon, proper interpretation requires consideration of 'the entire text, in view of its structure and of the physical and logical relation of its many parts.'" *Id.* (quoting Antonin Scalia & Bryan A. Garner, *Reading Law: The Interpretation of Legal Texts* (2012)). Accordingly, for purposes of determining whether the Commission should provide the requested declaratory statement, staff finds that the Petition does not support the determination that Tower 2 of 20 North meets an exception to the individual metering requirement contained in Rule 25-6.049(5)(d) and (g), F.A.C., regardless of whether 20 North is a hotel (or similar facility) or a condominium, because occupancy of Tower 2 is not limited to "overnight occupancy."

Moreover, under the provisions of the rule applicable to condominiums, Rule 25-6.049(5)(g)1., F.A.C., requires the declaration of condominium itself to state "that at least 95 percent of the units are used solely for overnight occupancy as defined in paragraph (8)(b) of this rule." The Declaration of Condominium, which is attached as an exhibit to the Petition, fails to make such an assertion. Moreover, the Declaration of Condominium also states that "[s]ubject to applicable zoning, as it may exist from time to time, the Unit may be used as a private temporary or permanent residence, as such use may be limited by applicable zoning." In addition to limiting occupancy to "a short term such as per day or per week," the definition of "overnight occupancy" also precludes "permanent residency."[5]

The Petition itself acknowledges that Tower 2 does not satisfy all the requirements of Rule 25-6.049(5)(g), F.A.C. The Petition alleges facts which, if true, would satisfy prongs 2 and 3 of Rule 25-6.049(5)(g), F.A.C. (pertaining to centralized telephone switchboard, registration desk, lobby, and check-in/check-out records).[6] In describing the attributes of Tower 2, the Petition merely states, "[t]hese are *part of the criteria* found in the exclusions to the individual metering requirement of Rule 25-6.049(5)(g)." (Emphasis added.) As such, the Petition acknowledges that Tower 2 does not meet all the criteria required to avoid individual metering.

For these reasons, staff recommends that the Commission should deny 20 North's Petition for Declaratory Statement. Under the facts presented by 20 North, Tower 2 does not satisfy either of the applicable exceptions to the individual meter rule found in Rule 25-6.049(5), F.A.C.

[5] Rule 25-6.049(8)(b), F.A.C.

[6] The Petition states that the management company "will be responsible for staffing 24 hour per day operations, including front desk personnel." According to the Petition, the telephone service within Tower 2 will operate through a central switchboard controlled by hotel management. The Petition asserts that the management company will also be responsible for "record keeping . . . for each unit showing the check-in and check-out date along with the name(s) of the individual(s) registered to occupy the unit."

***Issue 2:*** Should the Commission grant 20 North's alternative Petition for Variance or Waiver?

***Recommendation:*** Yes. 20 North has demonstrated that the purpose of the underlying statutes will be achieved by other means and that application of the rule would create both a substantial hardship and be a violation of the principles of fairness. However, should the Commission grant the waiver or variance, 20 North should be put on notice that the waiver/variance is only effective under the following conditions: (1) 20 North allocates the cost of electricity for Tower 2 to the individual condominium unit owners using an apportionment method consistent with subsection (9) of Rule 25-6.049, F.A.C.; (2) Tower 2 of 20 North continues to operate and is licensed as a transient public lodging facility; and (3) in the event that Tower 2 of 20 North ceases to operate and be licensed as a transient public lodging facility such that a conversion to individual metering is required, 20 North will be solely responsible for the cost of such conversion, pursuant to Rule 25-6.049(7), F.A.C.

## *Staff Analysis:*

### Law Governing Petitions for Waiver or Variance

The Legislature allows agencies to grant variances or waivers of their rules because "[s]trict application of uniformly applicable rule requirements can lead to unreasonable, unfair, and unintended results in particular instances." Section 120.542(1), F.S. Section 120.542(5), F.S., sets forth the necessary elements of a petition for waiver or variance. Each petition shall specify:

(a) The rule from which a variance or waiver is requested.
(b) The type of action requested.
(c) The specific facts that would justify a waiver or variance for the petitioner.
(d) The reason why the variance or the waiver requested would serve the purposes of the underlying statute.

Rule 28-104.002, F.A.C., governs what a petition for variance or waiver must include. Rule 25-6.049, F.A.C., requires individual metering of electricity use for individual occupancy units in residential and commercial buildings, unless they meet one of the exemptions set forth in the rule. If granted, the rule waiver would allow 20 North to install a single master meter to measure usage for all of the residential units in Tower 2.

#### *Purpose of the Underlying Statutes*

Pursuant to Section 120.542(5)(d), F.S., a petitioner seeking a rule waiver must demonstrate that the purpose of the underlying statute will be or has been achieved by other means. The underlying statutes of Rule 25-6.049, F.A.C., are Sections 366.05(1), 366.06(1), 366.81, and 366.82, F.S. Section 366.05(1), F.S., grants the Commission the authority to prescribe rate classifications, and service rules and regulations, to be observed by the investor-owned electric utilities. Sections 366.81 and 366.82, F.S., are known collectively as the Florida Energy Efficiency and Conservation Act (FEECA), and direct the Commission to adopt goals and approve plans related to the conservation of electric energy.

The Commission has stated that the purpose of Rule 25-6.049, F.A.C., is to implement the Florida Energy Efficiency and Conservation Act (FEECA) and encourage customers to conserve

electricity.[7] As this Commission has noted, "when unit owners are responsible for paying for their actual consumption, they are more likely to conserve to minimize their bills."[8] Typically, the requirement that individual occupancy units be individually metered serves the conservation goals of FEECA because if unit owners are responsible for costs based on their actual electricity consumption, they are more likely to conserve energy in order to minimize the cost of energy. However, in situations in which the people occupying the residential units don't see a direct financial impact for the energy they consume, such as hotels or rental condominium units, individual metering defeats the purpose of the statute. This is the reason for the exceptions to individual metering contained in Rule 25-6.049, F.A.C. In such situations, the property manager, who has responsibility for cost control, can most effectively implement conservation measures to reduce the overall electricity consumption of the facility. 20 North has indicated that management will ensure that the HVAC equipment is maintained to operate a peak efficiency and that the curtains will be closed and the thermostat set at a higher temperature when the units are unoccupied.

If master-metering is implemented, Rule 25-6.049(9)(a), F.A.C., provides that the cost of electricity may be allocated to individual occupancy units using "reasonable apportionment methods." According to the Petition, costs for electric (as well as water and sewer) "will be apportioned as common expenses in the same manner as other common expenses on a pro-rata share based on the square footage of the unit as compared to the total square footage of all units." Staff believes that this apportionment method is reasonable and meets the purpose of Section 366.05(1), F.S.

### *Substantial Hardship or Violation of Principles of Fairness*

Pursuant to Section 120.542, F.S., a petition for variance or waiver must also demonstrate that application of the rule would create a substantial hardship or violate principles of fairness. Substantial hardship is defined as a demonstrated economic, technological, legal or other type of hardship to the person requesting the waiver. Principles of fairness are violated when the literal application of a rule affects a particular person in a manner significantly different from the way it affects other similarly situated persons who are subject to the rule. Staff believes that 20 North has demonstrated that when the rule is applied to it as concerns Tower 2, a substantial hardship occurs and there is a violation of the principles of fairness.

In prescribing fair and reasonable rates and rate classifications under Sections 366.05(1) and 366.06(1), F.S., the Commission considers, among many other things, load characteristics and usage patterns. Differences in usage patterns and load justify different rates between customer classes. *See Florida Power Corp. v. Mayo,* 203 So. 2d 614, 615 (Fla. 1967). Staff agrees with 20 North that load characteristics and usage patterns of Tower 2 will be more like a hotel rather than a residential condominium, and that it would be a violation of the principles of fairness to require 20 North to individually meter Tower 2.

According to 20 North, Tower 2 must be registered with Department of Business Regulation as a hotel under Section 509.242(1)(a), F.S. Because it asserts that "[t]he Florida Department of

[7] Order No. PSC-01-0626-PAA-EU, issued March 14, 2001, in Docket No. 001543-EU, *In re: Petition for Variance from or Waiver of Rule 25-6.049(5)(a), F.A.C., by Sundestin International Homeowners Association, Inc.*
[8] *Id.*

Revenue and the Department of Business Regulation will treat Tower 2 like a commercial hotel based on its method of operation," 20 North seeks master-metering for Tower 2 as that is available to "other similar resort hotels." Because motels and hotels are exempt from the individual metering requirement under paragraph (5)(d) of Rule 25-6.049, F.A.C., they benefit from the lower electricity costs of master-metering. 20 North states that if it is required to individually meter Tower 2, it will incur higher energy costs than its competitors. 20 North asserts that application of the rule will cause a substantial hardship because it will place Tower 2 of 20 North at a competitive disadvantage in regard to the motels and hotels with which it will compete for guests. Staff believes that the application of the rule in this instance will result in substantial economic hardship for 20 North.

Section 120.542(2), F.S., states that principles of fairness are violated when the literal application of a rule affects a particular person in a manner significantly different from the way it affects other similarly situated entities who are subject to the rule. 20 North asserts that Tower 2 will operate in a manner similar to other hotels and motels in the area. Staff believes that applying the rule to Tower 2 of 20 North in this particular instance will result in treatment that is disparate. Staff believes that the different treatment of similar facilities resulting from the application of Rule 25-6.049(6), F.A.C., to Tower 2 of 20 North constitutes a violation of the principles of fairness as defined in Section 120.542(2), F.S.

## Conclusion

Even though Tower 2 does not limit guests to "overnight occupancy," staff recommends that the Commission grant the waiver/variance. 20 North has demonstrated that the purpose of the underlying statutes will be achieved by other means, and that application of the rule would create both a substantial hardship and be a violation of the principles of fairness. However, should the Commission grant the waiver or variance, 20 North should be put on notice that the waiver/variance is only effective under the following conditions: (1) 20 North allocates the cost of electricity for Tower 2 to the individual condominium unit owners using an apportionment method consistent with subsection (9) of Rule 25-6.049, F.A.C.; (2) Tower 2 of 20 North continues to operate and is licensed as a transient public lodging facility; and (3) in the event that Tower 2 of 20 North ceases to operate and be licensed as a transient public lodging facility such that a conversion to individual metering is required, 20 North will be solely responsible for the cost of such conversion, pursuant to Rule 25-6.049(7), F.A.C.

***Issue 3:*** Should this docket be closed?

***Recommendation:*** Yes. With regard to the Petition for Declaratory Statement, regardless of whether the Commission votes to grant or deny the Petition, a final order will be issued and the docket should be closed. With regard to the alternative Petition for Variance or Waiver, 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. (Sapoznikoff)

***Staff Analysis:*** With regard to the Petition for Declaratory Statement, regardless of whether the Commission votes to grant or deny the Petition, a final order will be issued and the docket should be closed. With regard to the alternative Petition for Variance or Waiver, 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.

**EXHIBIT "A"**

**25-6.049 Measuring Customer Service.**

(1) All energy sold to customers shall be measured by commercially acceptable measuring devices owned and maintained by the utility, except where it is impractical to meter loads, such as street lighting, temporary or special installations, in which case the consumption may be calculated, or billed on demand or connected load rate or as provided in the utility's filed tariff.

(2) When there is more than one meter at a location, the metering equipment shall be so tagged or plainly marked as to indicate the circuit metered. Where similar types of meters record different quantities, (kilowatt-hours and reactive power, for example), metering equipment shall be tagged or plainly marked to indicate what the meters are recording.

(3) Meters which are not direct reading shall have the multiplier plainly marked on the meter. All charts taken from recording meters shall be marked with the date of the record, the meter number, customer, and chart multiplier. The register ratio shall be marked on all meter registers. The watt-hour constant for the meter itself shall be placed on all watt-hour meters.

(4) Metering equipment shall not be set "fast" or "slow" to compensate for supply transformer or line losses.

(5) Individual electric metering by the utility shall be required for each separate occupancy unit of new commercial establishments, residential buildings, condominiums, cooperatives, marinas, and trailer, mobile home and recreational vehicle parks. However, individual metering shall not be required for any such occupancy unit for which a construction permit was issued before, and which has received master-metered service continuously since January 1, 1981. In addition, individual electric meters shall not be required:

(a) In those portions of a commercial establishment where the floor space dimensions or physical configuration of the units are subject to alteration, as evidenced by non-structural element partition walls, unless the utility determines that adequate provisions can be made to modify the metering to accurately reflect such alterations;

(b) For electricity used in central heating, ventilating and air conditioning systems, or electric back up service to storage heating and cooling systems;

(c) For electricity used in specialized-use housing accommodations such as hospitals, nursing homes, living facilities located on the same premises as, and operated in conjunction with, a nursing home or other health care facility providing at least the same level and types of services as a nursing home, convalescent homes, facilities certificated under Chapter 651, F.S., college dormitories, convents, sorority houses, fraternity houses, and similar facilities;

(d) For lodging establishments such as hotels, motels, and similar facilities which are rented, leased, or otherwise provided to guests by an operator providing overnight occupancy as defined in paragraph (8)(b);

(e) For separate, specially-designated areas for overnight occupancy, as defined in paragraph (8)(b), at trailer, mobile home and recreational vehicle parks and marinas where permanent residency is not established;

(f) For new and existing time-share plans, provided that all of the occupancy units which are served by the master meter or meters are committed to a time-share plan as defined in Chapter 721, F.S., and none of the occupancy units are used for permanent occupancy.

(g) For condominiums that meet the following criteria:

1. The declaration of condominium requires that at least 95 percent of the units are used solely for overnight occupancy as defined in paragraph (8)(b) of this rule;

2. A registration desk, lobby and central telephone switchboard are maintained; and

3. A record is kept for each unit showing each check-in and check-out date for the unit, and the name(s) of the individual(s) registered to occupy the unit between each check-in and check-out date.

(6) Master-metered condominiums.

(a) Initial Qualifications – In addition to the criteria in paragraph (5)(g), in order to initially qualify for master-metered service, the owner or developer of the condominium, the condominium association, or the customer must attest to the utility that the criteria in paragraph (5)(g) and in this subsection have been met, and that any cost of

future conversion to individual metering will be the responsibility of the customer, consistent with subsection (7) of this rule. Upon request and reasonable notice by the utility, the utility shall be allowed to inspect the condominium to collect evidence needed to determine whether the condominium is in compliance with this rule. If the criteria in paragraph (5)(g) and in this subsection are not met, then the utility shall not provide master-metered service to the condominium.

(b) Ongoing Compliance – The customer shall attest annually, in writing, to the utility that the condominium meets the criteria for master metering in paragraph (5)(g). The utility shall establish the date that annual compliance materials are due based on its determination of the date that the criteria in paragraphs (5)(g) and (6)(a) were initially satisfied, and shall inform the customer of that date before the first annual notice is due. The customer shall notify the utility within 10 days if, at any time, the condominium ceases to meet the requirements in paragraph (5)(g).

(c) Upon request and reasonable notice by the utility, the utility shall be allowed to inspect the condominium to collect evidence needed to determine whether the condominium is in compliance with this rule.

(d) Failure to Comply – If a condominium is master metered under the exemption in this rule and subsequently fails to meet the criteria contained in paragraph (5)(g), or the customer fails to make the annual attestation required by paragraph (6)(b), then the utility shall promptly notify the customer that the condominium is no longer eligible for master-metered service. If the customer does not respond with clear evidence to the contrary within 30 days of receiving the notice, the customer shall individually meter the condominium units within six months following the date on the notice. During this six month period, the utility shall not discontinue service based on failure to comply with this rule. Thereafter, the provisions of Rule 25-6.105, F.A.C., apply.

(7) When a structure or building is converted from individual metering to master metering, or from master metering to individual metering, the customer shall be responsible for the costs incurred by the utility for the conversion. These costs shall include, but not be limited to, any remaining undepreciated cost of any existing distribution equipment which is removed or transferred to the ownership of the customer, plus the cost of removal or relocation of any distribution equipment, less the salvage value of any removed equipment.

(8) For purposes of this rule:

(a) "Occupancy unit" means that portion of any commercial establishment, single and multi-unit residential building, or trailer, mobile home or recreational vehicle park, or marina which is set apart from the rest of such facility by clearly determinable boundaries as described in the rental, lease, or ownership agreement for such unit.

(b) "Overnight Occupancy" means use of an occupancy unit for a short term such as per day or per week where permanent residency is not established.

(9)(a) Where individual metering is not required under subsection (5) and master metering is used in lieu thereof, reasonable apportionment methods, including sub-metering may be used by the customer of record or the owner of such facility solely for the purpose of allocating the cost of the electricity billed by the utility. The term "cost" as used herein means only those charges specifically authorized by the electric utility's tariff, including but not limited to the customer, energy, demand, fuel, conservation, capacity and environmental charges made by the electric utility plus applicable taxes and fees to the customer of record responsible for the master meter payments. The term does not include late payment charges, returned check charges, the cost of the customer-owned distribution system behind the master meter, the customer of record's cost of billing the individual units, and other such costs.

(b) Any fees or charges collected by a customer of record for electricity billed to the customer's account by the utility, whether based on the use of sub-metering or any other allocation method, shall be determined in a manner which reimburses the customer of record for no more than the customer's actual cost of electricity.

(c) Each utility shall develop a standard policy governing the provisions of sub-metering as provided for herein. Such policy shall be filed by each utility as part of its tariffs. The policy shall have uniform application and shall be nondiscriminatory.

*Rulemaking Authority 350.127(2), 366.05(1) FS. Law Implemented 366.05(1), 366.06(1), 366.81, 366.82 FS. History–New 7-29-69, Amended 11-26-80, 12-23-82, 12-28-83, Formerly 25-6.49, Amended 7-14-87, 10-5-88, 3-23-97, 10-10-06.*

# Item 3

FILED 7/24/2025
DOCUMENT NO. 06825-2025
FPSC - COMMISSION CLERK

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:** July 24, 2025

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

**FROM:** Division of Economics (P. Kelley) *EJD*
Office of the General Counsel (Sandy) *JSC*

**RE:** Docket No. 20250058-GU – Petition for approval of natural gas transportation service agreement between Florida City Gas and Miami-Dade County through Miami-Dade Water and Sewer Department.

**AGENDA:** 08/05/25 – Regular Agenda – Proposed Agency Action – Interested Persons May Participate

**COMMISSIONERS ASSIGNED:** All Commissioners

**PREHEARING OFFICER:** Graham

**CRITICAL DATES:** None

**SPECIAL INSTRUCTIONS:** None

## Case Background

On April 8, 2025, Florida City Gas (FCG or company) filed a petition seeking approval of a proposed 2025 to natural gas transportation service agreement (TSA) between FCG and Miami-Dade County Water and Sewer Department (MDWASD) through Miami-Dade County. FCG is a public utility as defined by Section 366.02(8), Florida Statutes (F.S.). MDWASD is a water and sewer utility operating in Miami-Dade County, Florida. MDWASD's Alexander Orr (Orr) and Hialeah Preston (Hialeah) use natural gas at plants to heat lime kilns that produce lime for the water treatment process. The natural gas is also used to power high service pumps that pump water through MDWASD's water distribution system to customers.

Currently, FCG is providing natural gas transportation service to MDWASD's Orr and Hialeah plants via the TSA the Commission approved by Order No. PSC-2013-0402-PAA-GU (2014 TSA).[1]

The 2014 TSA was needed in order to allow FCG to provide natural gas transportation service to the Alexander Orr and Hialeah water treatment plants after the expiration of their 2011 TSA (effective August 1, 2009 through December 31, 2013).[2] FCG explained in the petition that the 2014 TSA expired on December 31, 2023.[3]

FCG has continued to provide service to Miami-Dade County's Orr and Hialeah plants on a month to month basis under the terms of the 2014 TSA while the parties negotiated a new contract. The purpose of the TSA is to create a new agreement between FCG and Miami-Dade County. The term of the proposed 2025 TSA would be a 10-year agreement, backdating to January 1, 2024, to be consecutive with the 2014 TSA.

Contract rate transportation service is available to certain large volume customers like MDWASD subject to Rule 25-9.034, Florida Administrative Code, and to the terms and conditions of FCG's Commission-approved Load Enhancement Service (LES) tariff.[4] The LES tariff provides that:

(a) The customer must be a commercial customer that currently receives service under contract or otherwise would take service pursuant to the Flexible Gas Service (FGS), Contract Demand Service (KDS), Transportation Supply Service (TSS), Off-System Sales Service (OSS), or GS-1250k rate schedules in FCG's tariff.

(b) The customer must have an alternative energy source or an economic natural gas bypass alternative, the availability of which shall be documented by the customer and verifiable by FCG.

(c) FCG must demonstrate to the Commission that service under the proposed contract will not impose any additional costs on FCG's other rate classes, including at a minimum, that the rate shall not be set lower than the incremental cost of service plus some additional amount as a reasonable return on investment.

(d) FCG is not compelled to offer service under contract, but if offered it shall be pursuant to mutually agreeable terms and conditions.

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[1] Order NO. PSC-13-0402-PAA-GU, Issued August 30, 2013, Docket No. 20130089-GU, *In RE: Joint petition for approval of natural gas transportation service between Florida City Gas and Miami-Dade County through Miami-Dade Water and Sewer Department.*

[2] Order No. PSC-12-0171-AS-GU, issued April 2, 2012, in Docket No. 090539-GU, *In re: Petition for approval of Special Gas Transportation Service agreement with Florida City Gas by Miami-Dade County through Miami-Dade Water and Sewer Department.*

[3] Order No. PSC-13-0402-PAA-GU, filed on August 30, 2013, in Docket No. 20130089-GU, *In re: Joint petition for approval of natural gas transportation service agreement between Florida City Gas and Miami-Dade County, through Miami-Dade Water and Sewer Department.*

[4] Order No. PSC-2023-0177-FOF-GU, issued June 9, 2023, in Docket No. 20220069-GU, *In re: Petition for approval of rate increase and request for approval of depreciation rates by FCG.*

(e) In developing rates for a contract under the LES tariff, FCG is required to evaluate competitive and overall economic market conditions.

(f) The agreed-upon contract must be approved by the Commission prior to execution by the parties.

Pursuant to the proposed TSA, attached hereto as Attachment A to this recommendation, FCG would continue to serve Miami-Dade County's Orr and Hialeah plants. During the evaluation of the petition, staff issued a data request to FCG. Responses from FCG were received on June 2, 2025. The Commission has jurisdiction over this matter pursuant to Sections 366.04, 366.05, and 366.06, F.S.

## Discussion of Issues

***Issue 1:*** Should the Commission approve the proposed transportation service agreement dated January 1, 2024, between FCG and Miami-Dade County?

***Recommendation:*** Yes, The Commission should approve the proposed transportation service agreement dated January 1, 2024, between FCG and Miami-Dade County. The 2025 TSA is based on the LES tariff rate case which provides clear specifications for contractual rates, terms, and conditions such as those negotiated by and Miami-Dade County. Based on staff's review of the petition and responses given by FCG to data requests, staff believes the 2025 TSA complies with the LES tariff. (P. Kelley)

***Staff Analysis:***

### Proposed Transportation Service Agreement

The 2025 TSA continues the plant-specific volumetric rate structure first established in 2011 and updated with the 2014 TSA. The 2025 TSA has updated the volumes and rates for each plant. FCG and Miami-Dade County indicate of the contract will provide for cost-based rates that recover the incremental costs of service plus some additional amount to recover some of FCG's common costs. The LES tariff indicated the Competitive Rate Adjustment tariff may apply in this instance. The proposed term of the 2025 TSA is for ten years beginning January 1, 2024, which would backdate the term to be consecutive with the 2014 TSA.

### Analysis of Bypass Alternatives Available to Miami-Dade County

The Commission has historically approved various load retention tariff schedules similar to FCG's LES tariff for gas transportation utilities which are designed to allow utilities to retain customers who have demonstrated the ability to bypass utility facilities at costs below the normal tariff rates.[5] In instances of demonstrated bypass, load retention tariffs typically encourage negotiated rates that allow the utility to cover its cost of providing service to the customer plus provide some amount of contribution to the common costs of the utility. FCG's LES Rate Schedule's section titled "Applicability" includes the requirement that, "the Customer must provide the Company verifiable documentation of either a viable alternative fuel or of a Customer's opportunity to economically bypass the Company's system." In response to staff's data request, FCG stated that the bypass assumptions today are the same as they were in the 2014 TSA, only that the bypass costs do interconnect with the Florida Gas Transmission pipeline and have been updated.[6]

To demonstrate the viability of bypass options, it is necessary to show that MDWASD's estimated cost per therm to bypass FCG's system would be less than the cost per therm that MDWASD would be charged under the GS-1250k tariff rate. The applicable GS-1250k tariff

[5] Order No. PSC-00-1592-TRF-GU, issued September 5, 2000, in Docket No. 000717-GU, *In re: Petition for authority to implement contract transportation service by City Gas Company of Florida;* Order No. PSC-96-1218- FOF-GU, issued September 24, 1996, in Docket No. 960920-GU, *In re: Petition for approval of flexible service tariff by City Gas Company of Florida*; Order No. PSC-98-1485-FOF-GU, issued November 5, 1998, in Docket No. 980895-GU, *In re: Petition by Florida Division of Chesapeake Utilities Corporation for authority to implement proposed flexible gas service tariff and to revise certain tariff sheets.*

[6] Joint Responses to Staff's First Data Request, Question 1 and Attachment A. Document No. 04147-2025.

rate is approximately $0.14073 per therm. Attachment A to the joint data request indicates that Miami-Dade County's estimated costs to bypass FCG's system for the Orr and Hialeah plants are $0.0233 per therm and $0.0455 per therm, respectively. Based on review of materials submitted in support in support of the petition and additional information provided in response to staff's data request, staff believes that FCG's demonstration that Miami-Dade County has verifiable and documented bypass alternatives to the FCG gas transportation facilities at the Orr and Hileah plants is reasonable.

## Cost Recovery under the Proposed 2025 TSA

Under the terms of the LES tariff, FCG must demonstrate to the Commission that service under the proposed contract will not impose any additional costs on FCG's other rate classes, including at the minimum, that the rate shall not be set lower that the incremental cost of service plus some additional amount as a reasonable return on investment. Staff has reviewed the cost support data for the 2025 TSA provided in the petition and in response to staff's data request.[7]

The cost support provided by the Company indicates that FCG's operations and maintenance expense estimates account for inflation for all years. As the previous inflationary rate was not sufficient in order for contract rates to be set at a level to allow recovery of incremental costs, the FCG and Miami-Dade County's negotiated inflationary adjustments to the 2025 TSA rates for beginning the year after the first year of the contract term. In the 2014 TSA, from January 1, 2018 till December 31, 2023, the annual price increase relied on the Bureau of Labor Statistics Consumer Price Index for All Urban Consumer (CPI-U). If the CPI-U did not increase or even decreased in that calendar year, then the transportation rates did not increase. In this TSA, there is an inflation provision that will allow for the annual price to increase by a minimum of no less than 0.75 percent or by the result of the increase to the CPI-U, which ever number is higher for that calendar year.[8]

Staff compared the incremental cost of service to the Orr and Hialeah plants to each plant's proposed 2025 TSA rates. Staff notes that the proposed 2025 TSA rates are set higher than incremental costs for all tier levels (1-3) and all years in the contract term (2024-2033) for both the Orr and the Hialeah plants. The total marginal revenue for the contract term (total revenue less inflation-adjusted costs for the 10-year term) is relatively small, especially for volumes based on proposed Tier 3 volumes and rates. In order to help assess whether rates under the 2025 TSA provide sufficient headroom to cover specified cost risks, staff evaluated the cost impact of volumetric shortfalls.

The risk of volumetric shortfalls has been addressed, at least in part, by the take or pay provision of the 2025 TSA.[9] Under the take or pay provision, if actual volumes are less than the take or pay volumes, the 2025 TSA rates are set sufficiently high to recover the incremental costs of service and provide some level of contribution.

[7] Joint Responses to Staff's First Data Request, Attachment B. Document No. 04147-2025
[8] See Attachment B, page 16 of the petition.
[9] A take or pay clause in a contract requires the buyer to either purchase a specified quantity of goods or services, or pay for them even if they are not taken. This type of clause is typically used in long-term supply agreements, especially in industries like energy and manufacturing, to reduce risk for both the seller and the buyer.

## Conclusion

Based upon review of the petition and the additional information provided in response to staff's data request, staff recommends that the Commission should approve the proposed transportation service agreement dated January 1, 2024, between FCG and Miami-Dade County. The 2025 TSA is based on the LES tariff which provides clear specifications for contractual rates, terms, and conditions such as those negotiated by the join petitioners. Based on staff's review of the petition and responses provided by FCG to data requests, staff believes the 2025 TSA complies with the LES tariff.

***Issue 2:*** Should this docket be closed?

***Recommendation:*** 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. (Sandy)

***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.

**LOAD ENHANCEMENT SERVICE AGREEMENT**
**(CONFIDENTIAL) EXEMPT FROM PUBLIC RECORDS LAW**

This Load Enhancement Service Agreement ("**Agreement**") is made and entered into as of [DATE], by and between Pivotal Utility Holdings, Inc. d/b/a Florida City Gas ("**Company**") and Miami-Dade County ("**Customer**"). Company and Customer are sometimes referred to herein individually as a "**Party**" or collectively as the "**Parties.**"

**WITNESSETH**

WHEREAS, Company is a natural gas utility operating under Chapter 366, Florida Statutes, subject to the jurisdiction of the Florida Public Service Commission or any successor agency thereto (hereinafter called the "**Commission**"); and

WHEREAS, Customer is a political subdivision of the State of Florida that operates the Miami-Dade Water and Sewer Department ("**MDWSD**"); and

WHEREAS, Customer receives natural gas service from the Company at the MDWSD Alexander Orr Water Treatment Plant ("**Orr Plant**") and Hialeah Lime Recalcination Facility ("**Hialeah Plant**") (collectively, the Orr Plant and Hialeah Plant are herein referred to as "**Service Locations**"); and

WHEREAS, Company provides natural gas service to Customer at the Service Locations pursuant to the rates and terms of the Parties' Natural Gas Transportation Service Agreement dated December 4, 2013, which expired December 31, 2023; and

WHEREAS, Customer has requested to continue to receive natural gas service from the Company at the Service Locations in accordance with the terms and conditions of this Agreement; and

WHEREAS, Company has sufficient capacity to continue to serve Customer at the Service Locations for the foreseeable future and for at least the following ten (10)-year period; and

WHEREAS, Customer's existing MDWSD Account No. 1000030 for the Orr Plant is currently eligible to receive natural gas service under Rate Schedule GS-120K of the Company's Tariff on file with the Commission, and Customer's existing MDWSD Account No. 1000031 for the Orr Plant and existing MDWSD Account No. 1000022 for the Hialeah Plant are each currently eligible to receive natural gas service under Rate Schedule GS-1,250K of the Company's Tariff on file with the Commission (collectively, Account Nos. 1000030, 1000031, and 1000022 are herein referred to a "**MDWSD Accounts**"); and

WHEREAS, the present pricing available for the MDWSD Accounts under Company's Rate Schedules GS-120k and GS-1,250K is sufficient economic justification for Customer to decide not to take natural gas service from Company for all or a part of Customer's needs at the Service Locations; and

WHEREAS, Customer has provided Company with verifiable documentation of either a viable alternative fuel at the Service Locations or Customer's opportunity to economically bypass the Company's system for the Service Locations; and

WHEREAS, Company is authorized under its Load Enhancement Service ("**LES**") Tariff on file with the Commission, which is provided in **Attachment A**, to negotiate individual service agreements and rates with customers taking into account competitive and economic market conditions and overall system benefits; and

WHEREAS, Customer has represented its intention to not take natural gas service from the Company at the Service Locations unless a pricing adjustment is made under the Company's LES Tariff; and

WHEREAS, based on Company's evaluation of competitive and economic market conditions and overall system benefits, the Company is willing to enter into an individual service agreement with Customer and make a pricing adjustment under the Company's LES Tariff in exchange for a commitment by Customer to continue to take delivery of, or pay for if not taken, minimum annual volumes of gas at each Service Location for an initial term of ten (10) years subject to the terms and conditions set forth in this Agreement,

NOW THEREFORE, in consideration of the mutual covenants and agreements herein contained and other good and valuable consideration, such consideration to be provided specifically in support of the rights set forth herein, the receipt and sufficiency of all of which are hereby acknowledged by both Parties, and intending to be legally bound, Company and Customer agree to the following:

**AGREEMENT**

1. Effective Date and Term. Subject to all other provisions, conditions, and limitations hereof, this Agreement shall become effective for all bills rendered on or after the date the Commission approves this Agreement to become effective ("**Effective Date**") and shall remain in force from the Effective Date until December 31, 2033 ("**Term**").

    a. The Parties agree that, within fifteen (15) days after the Effective Date, Customer will pay Company an amount equal to the difference between the rates agreed upon

herein and the rates actually paid by Customer for all consumption on all MDWSD Accounts from January 1, 2024 until the Effective Date ("**Make Whole Payment**").

b. The Parties agree that no later than one-hundred and eighty (180) days prior to the expiration of this Agreement, Customer may request a new contract or rate under the Company's Tariff in effect at that time, which Tariff may be amended from time-to-time. If the Parties are unable to reach an agreement by the end of the Term, this Agreement will terminate and natural gas service provided to Customer at the Service Locations will be provided at the applicable Rate Schedules in the Company's Tariff in effect at that time unless and until a subsequent contract has been approved by the Commission and executed by the Parties.

c. For purposes of this Agreement, the term "**Contract Year**" shall mean each consecutive twelve (12) month period starting as of January 1, 2024.

2. Commission Approval. The Parties acknowledge and agree that a condition precedent to this Agreement is the issuance of a final order by the Commission approving this Agreement.

a. Upon written authorization by Customer, Company shall promptly file this Agreement and any related documentation with the Commission in order to obtain the necessary Commission approvals.

b. Company shall include Customer in any Commission filings or communications associated with the Commission's review and approval of this Agreement.

c. The Parties agree Company shall request that the Commission approve this Agreement and the rates and terms set forth herein to become effective for all bills rendered on or after the Effective Date; however, in the event the Commission, for purposes of the calculation of the Competitive Rate Adjustment (Rider C), imputes revenues from Customer to Company as if Customer paid the rates set forth in the applicable Rate Schedules of the Company's Tariff for the time period between January 1, 2024 and the Effective Date (less the Make Whole Payment), the Parties agree and acknowledge that Customer will pay Company the imputed amounts within thirty (30) days after the Commission decision imputing such amounts.

3. Gas Facilities. The Parties agree that no additional or incremental gas facilities or equipment are necessary to provide natural gas service to Customer at the Service Locations. Any changes to the existing facilities or their configuration requested by Customer will be provided by Company and paid for by Customer at the Company's current material and labor rates and other costs.

a. The Parties agree that Automatic Meter Reading (AMR) equipment capable of providing daily readings is required to provide natural gas service to Customer at the Service Locations. The Parties agree that any changes in the location of the existing AMR meters must be approved by Company and paid for by Customer at Company's current cost at that time. Customer shall provide and maintain, without charge to Company, a suitable space for the AMR metering and associated equipment. Such space shall be as near as practicable to the point of entrance of the service pipe and readily accessible to authorized employees or agents of Company. Where feasible, Company will make data from the AMR device or other equipment available to Customer.

b. The Parties agree that legal and equitable title to all mains, service lines, and appurtenances currently installed to serve the Service Locations shall be and remain in Company, and the Company shall have the right, without the consent of, or any refund to the Applicant, to: (i) to extend the gas main or connect additional gas mains to any part of it, except those parts of such facilities on the County's Plant sites; and (ii) serve new additional regular customers at any time through service connections attached to such main or to extended or connected gas mains.

4. Deposit. The Parties agree that, pursuant to Rule 2 of Company's Tariff, Customer shall pay to Company a cash deposit of $[redacted] within thirty-days from the date this Agreement is executed. Company has no obligation to provide natural gas service under this Agreement until receipt of said deposit from Customer. Consistent with Rule 2 of the Company's Tariff, the Company will refund the deposit once the Customer has established a satisfactory payment record for a period of 23 months.

5. Delivery Locations. Customer shall arrange and has the sole responsibility for the delivery of all gas to be transported by Company hereunder to take place at those interconnections between Company and Florida Gas Transmission Company heretofore determined Points of Receipt described as the FGG Supply Pool South. Company shall transport and deliver gas from the Points of Receipt to Customer at the following MDWSD Service Locations:

Alexander Orr Water Treatment Plant
6800 S.W. 87th Avenue
Miami, FL 33173
MDWSD Account Nos. 1000030 and 1000031

Hialeah Lime Recalcination Facility
700 W. 2nd Avenue
Hialeah, FL 33010
MDWSD Account No. 1000022

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6. Rate Schedule(s).

a. *Transportation and Delivery Service.* During the Term of this Agreement, the Parties agree that Customer will take all natural gas transportation and delivery services at the Service Locations from Company at the rates set forth in **Attachment B**.

b. *Gas Supply/Commodity.* The Parties agree that Company shall have no obligation to provide gas supplies to Customer under this Agreement, and that Customer may elect to obtain and purchase their gas supply requirements from third-party marketers or suppliers that are authorized and approved to deliver natural gas supplies to Company's city gates, the terms and pricing of such commodity shall be solely between Customer and their third-party supplier or marketer. If Customer elects to purchase and take their natural gas supply from Company, the rate to be paid by Customer for gas commodity delivered to the Service Locations shall be in accordance with Rider A – Purchase Gas Adjustment of Company's Tariff, as may be updated and modified from time-to-time upon approval by the Commission.

c. *Rider and Surcharges.* Except as expressly provided herein, Customer shall pay all Commission approved riders and surcharges that are or become applicable to Rate Schedules GS-120K and GS-1,250K, as may be adopted and amended from time-to-time. The Parties agree that Rider C – Competitive Rate Adjustment and the Rider B – Energy Conservation Cost Recovery surcharge of the Company's Tariff shall not be applicable to Customer at the Service Location for the Term of this Agreement.

7. Volumes of Gas to be Delivered.

a. *Minimum Volumes of Gas.*

i. During the Term of this Agreement, Customer agrees to take delivery of, or pay for if not taken, the minimum annual volumes for each of the Service Locations set forth in **Attachment C**. If, at the end of any Contract Year, the volume of gas taken by Customer at the Service Locations during such year is less than the minimum annual volumes specified in **Attachment C** (the "**Shortfall Quantity**"), then Company shall invoice for, and Customer shall pay for, the Shortfall Quantity at the rates set forth in **Attachment B**.

ii. Company will perform an annual true-up of Customer's monthly billings for the MDWSD Accounts within forty-five (45) days following the

conclusion of a Contract Year so that Customer's final rate per therm matches the corresponding rate per therm at each Service Location respectively, based upon the total annual volumes delivered for each MDWSD Account, and which may require a refund to or a supplemental payment from Customer based upon actual volumes taken by Customer at each Service Location and the take or pay minimum annual volumes agreed to herein.

iii. The take or pay minimum volumes for the Service Locations shall be the lowest volume in the Tier I range as set forth in **Attachment B.**

b. *Maximum Volumes of Gas.*

i. During the Term of this Agreement, Company and Customer agree that the maximum annual contract quantities of gas (**"MACQ"**) that the Company is obligated to deliver to the Service Locations per year shall be the volumes set forth in **Attachment C.**

ii. Company may, from time to time, make deliveries to Customer in excess of the MACQs at the rates set forth in **Attachment B.** However, if Customer desires to increase the MACQ for any facility, Customer will provide Company with a written request. Within ninety (90) days from receipt of such request, Company shall provide Customer with proposed terms and conditions under which Company will be willing to increase MACQ. Such terms shall include, but not be limited to, Customer's willingness to pay, if necessary, an appropriate contribution to the cost of construction of additional facilities necessary.

iii. The maximum daily contract quantity of gas ("MDCQ") Customer may have delivered to Company at the Points of Receipt, in the aggregate, for transportation by Company hereunder shall be the volumes set forth in **Attachment C.** During the Term of this Agreement, Customer may increase the MDCQ and/or the maximum deliveries designated herein for each Point of Receipt only with the prior consent of Company, and only upon such prior notice as Company may require under the circumstances.

c. *Full Requirements.* It is understood and agreed that Company's rendering of gas transportation service under the terms and conditions of this Agreement is in consideration of Customer's agreement to utilize exclusively such services for natural gas consumed at Customer's Orr Plant and Hialeah Plant, from the Effective Date hereof and during the Term of this Agreement and any renewals thereof. Accordingly, Customer agrees that Customer will not, for the Term of this

Agreement, and any renewals thereof, displace any service provided under this Agreement with service from any third party or any alternative fuel source unless the Company is unable to meet Customer's full requirements.

8. Measurement. Company agrees to install and maintain facilities necessary to deliver and accurately measure the gas delivered to Customer at the Service Locations. All charges billed to Customer's MDWSD Accounts hereunder shall be based on the measurements made at the Service Locations. Measurement shall include temperature-correcting devices installed and maintained by Company to ensure proper billing of gas, corrected to 60 degrees Fahrenheit, at no cost to Customer. Customer may, with the prior written consent of Company, which shall not be unreasonably withheld, and at no cost to Company, install check-measuring devices at the Service Locations.

9. Interruption and Curtailment. In addition to the interruption and curtailment terms in the Rules and Regulations of the Company's Tariff, as may be amended from time-to-time, or the Company's Curtailment Plan, as provided in **Attachment D**, the Company shall have the right to reduce or to completely curtail deliveries to Customer under this Agreement for any of the following reasons:

   a. If in the Company's opinion, Customer will overrun the volume of gas to which it is entitled from its supplier (or overrun the volume of gas being delivered to Company for Customer's account);

   b. In the event Company is notified by its supplier or pipeline transporter to interrupt or curtail deliveries to Customer, or deliveries of gas for uses of the same type or category as Customer's use of gas hereunder; or

   c. When necessary to maintain the operational reliability or safety of Company's system.

   In the event service to Customer is interrupted or curtailed by Company for any of the foregoing reasons, the Company shall (1) notify Customer of such interruption or curtailment as soon as operationally practical and (2) modify the minimum annual volumes required to be taken by Customer under this Agreement for the applicable Contract Year to reflect such interruption or curtailment.

10. Termination. This Agreement shall remain in effect for the period defined in the Term above. This Agreement may be terminated in the following manners:

   a. *Modification of Rate Schedule.* In the event that any provision of any applicable rate schedule(s) is amended or modified by the Commission in a manner that is

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material and adverse to one of the Parties, that Party shall be entitled to terminate this Agreement, by written notice to the other Party tendered no later than sixty (60) days after such amendment or modification becomes final and non-appealable.

b. *Regulatory Review.* In the event of a determination by the Commission that entering into this Agreement was not prudent, this Agreement shall be considered terminated immediately upon such finding.

c. *Inaccurate or Misleading Information.* For the purposes of this Agreement, in the event that it is determined that Customer has provided inaccurate or misleading information to Company, which Company relied upon in entering into this Agreement, this Agreement shall be considered terminated immediately upon such a determination by Company, and within thirty (30) days Customer shall remit to the Company the full amount of any discount already provided to the Customer below what the Customer would have otherwise paid under the applicable rate schedule of Company's Tariff on file with the Commission.

d. *Effect of Termination.* In the event this Agreement is terminated for any of the reasons provided above, Customer shall have the option to (i) discontinue service subject to the terms and conditions of this Agreement or (ii) continue to receive natural gas service from Company at the Service Locations at the rates and terms set forth in the applicable Rate Schedules of the Company's Tariff in effect at that time for all natural gas service provided to Customer after the date of termination unless and until a subsequent contract has been approved by the Commission and executed by the Parties.

11. Incorporation of Tariff. Except to the extent modified herein, the Parties expressly agree that services to be provided under this Agreement shall be subject to all the Rules and Regulations set forth in the Company's Tariff on file with the Commission, as may be amended from time-to-time. References herein to certain portions of such Tariff, as they now exist, shall not be construed as exclusive, and all other portions in effect or modified from time-to-time shall apply as fully as though they had been incorporated herein. In the event of any conflict between this Agreement and such Tariff or Rules and Regulations (other than as set out in the LES Tariff), the terms and conditions of this Agreement shall control.

12. Entire Agreement. This Agreement, together with any attachments hereto and the Company's Tariff, constitutes the entire agreement between the Parties concerning the subject matter hereof and supersedes all prior and contemporaneous agreements, representations, warranties, and understandings of the Parties with respect thereto, whether oral, written, or implied. This Agreement, when duly executed, constitutes the only agreement between the Parties relative to the matter herein described.

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13. Modifications. No amendment or modification to this Agreement shall be effective unless mutually agreed to in writing, which agreement shall not be unreasonably withheld.

14. Assignment. This Agreement has been entered into for the sole benefit of the Parties. It is not intended to benefit, or create any rights whatsoever in favor of, any persons other than the Parties hereto. No assignment of this Agreement by Customer shall be effective unless prior written approval shall have been granted by Company.

15. Notice. All notices required under this Agreement shall be deemed given when sent by overnight courier or registered or certified mail, or when sent by telecopy, telegraph or other graphic, electronic means and confirmed by overnight courier or registered or certified mail addressed as follows:

| | |
|---|---|
| If to Company: | Florida City Gas<br>561 NW Mercantile Pl<br>Port Saint Lucie, FL 34986<br>Email: FSmalley@chpk.com<br>Attention: Forrest Smalley, Director |
| With Copy to: | Florida City Gas<br>500 Energy Lane<br>Suite 100<br>Dover, DE 19904<br>Email: SBreakie@chpk.com<br>Attention: Shane Breakie, Vice President |
| If to Customer: | Miami-Dade County, Water and Sewer Department<br>6800 SW 87 Ave<br>Miami, FL 33173<br>Email: Samuel.carballo@miamidade.gov<br>Attention: Samuel Carballo, Division Director |
| With Copy to: | Miami-Dade County, Water and Sewer Department<br>6800 SW 87 Ave<br>Miami, FL 33173<br>Email: Yuksenin.alba@miamidade.gov<br>Attention: Yuksenin Alba, Accountant 2 |

Either party shall have the right to change the address or name of the person to whom such notices are to be delivered by notice to the other party.

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16. Law and Venue. This Agreement shall be governed in all respects by and construed in accordance with the laws of the State of Florida without regard to conflicts of law provisions. Any litigation between the Parties shall be conducted in the state or federal courts of Miami-Dade County, Florida.

17. Headings. The headings in this Agreement are provided for convenience of reference only and shall not affect the construction of the text of this Agreement.

18. Non-Waiver. No waiver of any provision of this Agreement shall be deemed to be nor shall constitute a waiver of any other provision whether or not similar, nor shall any waiver constitute a continuing waiver. No waiver shall be binding unless executed in writing by the Party making the waiver.

19. Severability. If any provision of this Agreement shall be held or deemed to be invalid, inoperative, or unenforceable, such circumstances shall not affect the validity of any other provision of this Agreement.

20. Survival. The obligations of the Parties hereunder which by their nature survive the termination of this Agreement shall survive and inure to the benefit of the Parties.

21. Counterparts. This Agreement may be signed in counterparts, each of which may be deemed an original and all of which together constitute one and the same agreement.

22. Authorization and Binding Obligations. Each Party hereto represents to the other Party that the execution, delivery, and performance of this Agreement have been duly authorized, and this Agreement has been duly executed and delivered by the signatory so authorized, and the obligations contained herein constitute the valid and binding obligations of such Party.

23. Public Records and Contracts for Services Performed on Behalf of Miami-Dade County. The Company shall comply with the Public Records Laws of the State of Florida, including by not limited to, (1) keeping and maintaining all public records that ordinarily and necessarily would be required by the County in order to perform the service; (2) providing the public with access to public records on the same terms and conditions that the County would provide the records and at a cost that does not exceed the cost provided in Chapter 119, F.S., or as otherwise provided by law; (3) ensuring that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law; and (4) meeting all requirements for retaining public records and transferring, at no cost, to the County all public records in possession of the Company upon termination of the contract and destroying any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements upon such transfer. In addition, all records stored electronically must be provided to the County in a format that

is compatible with the information technology systems of the County. Failure to meet any of these provisions or to comply with Florida's public records laws as applicable shall be a material breach of this Agreement and shall be enforced in accordance with the terms and conditions of the Agreement.

a. Identification of Confidential Information. Notwithstanding the foregoing, Company acknowledges that Customer is a governmental entity subject to the Public Records Laws of the State of Florida and any record or written communication received by Customer, as such receipt is defined by Florida law, is subject to the Public Records Laws and shall be disclosed if requested unless the record or document meets an exception of the Public Records Law, Chapter 119, Florida Statutes. Therefore, when submitting Confidential Information to the County, Company shall identify and conspicuously mark any information that Company deems to be exempt from the Public Records Law. Company's failure to mark such information as provided in this paragraph shall constitute a waiver of Company's right to later claim such unmarked information as exempt from the Public Records Laws and shall void any Customer obligations under this Agreement regarding disclosure of such unmarked information in response to a public records request. If Customer receives a public records request seeking in any way information that Company has labeled exempt under this Agreement, Customer shall promptly provide written notice to Company of the public records request, and Company shall provide a written response confirming the exempt nature of such information or records within 5 business days of notice from the Customer of the public records request. Upon receipt of such assertion of exemption, Customer shall assert the trade secret exemption on Company's behalf and will not produce the information and/or records that are covered by that assertion. If Company fails to provide written confirmation of the assertion of exemption within the timeframes provided herein, Customer may respond to the public records request as if no exemption has been asserted. For the avoidance of doubt, Customer acknowledges and agrees that it will keep confidential information communicated verbally.

**IF THE COMPANY HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE COMPANY'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT (305) 375-5773, ISD-VSS@MIAMIDADE.GOV, 111 NW 1st STREET, SUITE 1300, MIAMI, FLORIDA 33128.**

IN WITNESS WHEREOF the Parties hereto have executed this Agreement by their duly authorized officers on the date first written above.

ATTEST:

**Juan Fernandez-Barquin,**
**Clerk of the Court and Comptroller**

By: _____
Deputy Clerk

**Olga Valverde – c18183** 03/20/2025
Print Name Date

**MIAMI-DADE COUNTY, a political subdivision of the State of Florida**

By: _____
County Mayor

**Pivotal Utility Holdings, Inc. d/b/a Florida Gas Company** (Corporate Seal)

By: _____
Signature

_____, Secretary
Print Name

By: _____
Signature

_____, President
Print Name

STATE OF _____
COUNTY OF _____

The foregoing instrument was acknowledged before me by means of [ ] physical presence or [ ] online notarization, this ____ day of _____ _____, 20__, by _____, as President, and _____, as Secretary, _____, a _____, on behalf of the company, who is personally known to me or has produced (type of identification) as identification.

[Notary Seal]

_____
(Signature of person taking acknowledgment)

_____
(Name typed, printed or stamped)

_____
(Serial number, if any)

Approved for Legal Sufficiency:

_____ 03/17/25
Assistant County Attorney

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# LOAD ENHANCEMENT SERVICE AGREEMENT
## ATTACHMENT A

LES Tariff Pages

Florida City Gas
FPSC Natural Gas Tariff
Volume No. 10

First Revised Sheet No. 57
Cancels Original Sheet No. 57

### LOAD ENHANCEMENT SERVICE (LES)

**OBJECTIVE**

The objective of this Rate Schedule is to enable the Company to retain or obtain significant load on its system by providing the Company with the flexibility to negotiate individual service agreements with non-Residential Customers taking into account competitive and economic market conditions and overall system benefits.

**APPLICABILITY**

This sales or transportation service is available at the Company's sole discretion to Customer's which meet the applicability standards, including (1) an existing commercial customer receiving service under contract or any new or existing customer that would otherwise qualify for service under Rate Schedules KDS, TSS, OSS, GS-120K, GS-1,250K, GS-11M or GS-25M; (2) the Customer must provide the Company verifiable documentation of either a viable alternative fuel or of a Customer's opportunity to economically bypass the Company's system; (3) the Company must demonstrate that the Customer served under this Rate Schedule will not cause any additional cost to the Company's other rate classes, including, at a minimum, that the rate shall not be set lower than the incremental cost plus some additional amount as reasonable return on investment and; (4) the Customer and the Company must enter into a service agreement under this Rate Schedule. As used herein incremental cost shall include operations and maintenance, the depreciation expense for facilities used to provide service to the Customer, the return on the facilities computed at the rate of return approved in the Company's most recent rate case, and associated taxes.

**SERVICE AGREEMENT OBLIGATIONS**

Terms of service including operating conditions and, if applicable, a capital repayment mechanism acceptable to Company, which may include, but shall not be limited to, a minimum monthly or annual bill, will be set forth in individual service agreements between the Company and the Customer. Absent a service agreement with Company under this Rate Schedule, Company has no obligation to provide, and the Customer shall have no right to receive, service under this Rate Schedule, and Customer may request service under other applicable Rate Schedules.

Any service agreement under LES shall be subject to approval by the Florida Public Service Commission (FPSC) before any contract rate is implemented and the agreement can be executed by the parties.

**GAS SUPPLY OBLIGATION**

The Company shall have no obligation to provide gas supplies to Transportation Customers under this Rate Schedule.

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LOAD ENHANCEMENT SERVICE (LES)
(Continued)

MONTHLY RATE

1. The Distribution Charge shall be an amount negotiated between Company and Customer, but the rate shall not be set lower than the incremental cost plus some additional amount as a reasonable return on investment the Company incurs to serve the Customer. The distribution charge also shall include any capital recovery mechanism. The distribution charge shall be determined by the Company based on Company's evaluation of competitive and overall economic market conditions and the opportunity for the Company to expand its system into areas not served with gas as applicable. Such evaluation may include, but is not necessarily limited to: the cost of gas which is available to serve Customer; the delivered price and availability of Customer's alternate fuel or energy source; the nature of the Customer's operations (such as load factor, fuel efficiency, alternate fuel capacity, etc.); and the opportunity to extend gas service to areas not supplied with gas. As used herein incremental cost shall include operations and maintenance, the depreciation expense for facilities used to provide service to the Customer, the return on the facilities computed at the rate of return approved in the Company's most recent rate case, and associated taxes.

2. The Commodity Charge shall be the rate per therm for gas used computed to be the incremental cost of purchasing or producing gas, if taking supply from the Company.

3. The Company may permit the Customer to combine the accounting for the gas load delivered to multiple meters serving the same premise for this service.

INTERRUPTION AND CURTAILMENT

In addition to the interruption and curtailment terms in the Rules and Regulations or the Company's Curtailment Plan, the Company shall have the right to curtail deliveries to Customer pursuant to this Rate Schedule:

1. If in the Company's opinion, Customer will overrun the volume of gas to which it is entitled from its supplier (or overrun the volume of gas being delivered to Company for Customer's account); or

2. In the event Company is notified by its supplier or pipeline transporter to interrupt or curtail deliveries to Customer, or deliveries of gas for uses of the same type or category as Customer's use of gas hereunder; or

3. when necessary to maintain the operational reliability of Company's system.

CONFIDENTIALITY

The Company and Customer each regard the terms and conditions of the negotiated service agreement as confidential, proprietary business information.

The Company and Customer will utilize all reasonable and available measures to guard the confidentiality of said information, subject to the requirements of courts and agencies having jurisdiction hereof.

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LOAD ENHANCEMENT SERVICE (LES)
(Continued)

SPECIAL CONDITIONS

1. Service under this Rate Schedule shall be subject to the Rules and Regulations set forth in the tariff, except to the extent modified under this Rate Schedule and / or in a service agreement but such modification or exemption shall not apply to the minimum perquisite requirements set forth in the Applicability section of this Rate Schedule.

2. Term of Agreement: If the provision of service hereunder requires the installation of gas equipment at Customer's facility, Company and Customer may enter into an agreement as to the terms and conditions regarding the reimbursement of costs relating to such equipment. The initial term of the service agreement shall, at a minimum, be equal to the period of cost reimbursement. The rates established in the Monthly Rates section may be adjusted to provide for such cost reimbursement to the Company including carrying costs.

3. No later than 180 days prior to the expiration of this special contract, a Customer served under an LES contract may request a new contract under the terms and conditions of this tariff provision. If an agreement is not reached by the end of the term, the agreement will convert to the applicable General Services tariff (based on volume) until a new contract has been approved by the FPSC and executed by the parties.

4. Automatic Meter Reading (AMR) equipment capable of providing daily readings is required for Customers served under this Rate Schedule. See the Rules and Regulations for Metering for terms and conditions related to AMR's.

5. When entering into a service agreement with a Customer under this Rate Schedule, Company will take reasonable steps to mitigate the potential of any revenue shortfalls between the revenues received under a service agreement and the total cost and expenses relating to the associated capital investment made by the Company, including minimum annual requirement.

6. The difference between the otherwise applicable tariff rate and the approved contract rate under this Rate Schedule may be subject to recovery through Rider "C", Competitive Rate Adjustment ("CRA").

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**LOAD ENHANCEMENT SERVICE AGREEMENT**
**ATTACHMENT B**

Tiered Rates

| Plant Volume / Rate | Orr (combined) Volume | Rate | Hialeah Volume | Rate |
|---|---|---|---|---|
| Tier 1 | [redacted] million* to less than [redacted] million therms | [redacted] | [redacted] million* to less than [redacted] million therms | [redacted] |
| Tier 2 | [redacted] million therms to [redacted] million therms | [redacted] | [redacted] million therms to [redacted] million therms | [redacted] |
| Tier 3 | [redacted] million therms and higher | [redacted] | [redacted] million therms and higher | [redacted] |

Notes:

1. *Minimum annual contract volume.

2. Annual CPI Adjustment: The rates by location and tier shall be increased by a minimum of 0.75% or by the result of the increase, if any, to the United States Bureau of Labor Statistics Consumer Price Index for All Urban Consumers ("CPI-U"), whichever is greater. The tier rates will be re-calculated annually, to be effective for the period of January through December of each year beginning the year after the first year of the agreement term. The Company shall endeavor to provide Miami Dade Water and Sewer written documentation 30 days in advance of any Consumer Price Index (CPI-U) increase over the annual minimum increase applied to the tiered rates.

3. Deposits:
   a. Alexander Orr - [redacted]
   b. Alexander Orr Jr - [redacted]
   c. Hialeah - [redacted]

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**LOAD ENHANCEMENT SERVICE AGREEMENT**
**ATTACHMENT C**

Minimum Annual Volume

| | |
|---|---|
| Alexander Orr Water Treatment Plant (Combined) minimum annual volume | [redacted] therms |
| Hialeah Lime Recalcination Facility minimum annual volume | [redacted] therms |

Maximum Annual Contract Quantity (MACQ)

| | |
|---|---|
| Alexander Orr Water Treatment Plant (Combined) MACQ | [redacted] therms |
| Hialeah Lime Recalcination Facility MACQ | [redacted] therms |

Maximum Daily Contract Quantity (MDCQ)

| | |
|---|---|
| Alexander Orr Water Treatment Plant (Combined) MDCQ | [redacted] therms |
| Hialeah Lime Recalcination Facility MDCQ | [redacted] therms |

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**ATTACHMENT D**

Florida City Gas
FPSC Natural Gas Tariff
Volume No. 10 Original Sheet No. 25

RULES AND REGULATIONS (Continued)

17. GAS CURTAILMENT PLAN

During periods of supply shortages, operational constraints or Force Majeure events the Company may implement the terms of its Gas Curtailment Plan. The purpose of this plan is to preserve the ability to continue to provide essential gas services to the broadest base of Customers given limited gas supply and/or delivery capacity. Any Unauthorized Gas Use will be governed by the terms stated in the Unauthorized Gas Use section of this tariff. If a Customer notifies the Company that they have a medical necessity requiring gas use the Company will endeavor to provide adequate notice of any curtailments.

18. UNAUTHORIZED GAS USE

Unauthorized Gas Use includes, but is not limited to, any volume of gas taken by Customer in excess of its Demand Charge Quantity requirement as set forth in its Service Agreement with Company or the quantity of gas allowed by the Company on any day as a result of a curtailment or interruption notice issued by the Company in accordance with its tariff and/or by the Florida Public Service Commission of the State of Florida or any other governmental agency having jurisdiction. A "day" shall be a period of twenty-four (24) consecutive hours, beginning as near as practical to 8 a.m., or as otherwise agreed upon by Customer and Company.

The Company reserves the right to physically curtail the gas service to any Customer if, in the Company's sole judgement, such action is necessary to protect the operation of its system.

If a Customer uses gas after having been notified that gas is not available or, if applicable, uses gas in excess of the Demand Charge Quantity or requirements as established in the Service Agreement, then Unauthorized Gas Use charges shall apply to those amounts. Furthermore, if a Third Party Supplier (TPS) fails to deliver gas in the quantities and or imbalance ranges specified in the TPS Rate Schedule, then Unauthorized Gas Use charges shall apply to the TPS.

All Unauthorized Gas Use charges shall be billed at the higher of $2.50 per therm or a rate equal to ten times the highest price, for each day, for gas delivered to Florida Gas Transmission at St. Helena Parish, as reported in Platts Gas Daily plus Florida Gas Transmission Company's transportation cost and fuel, if applicable. However, this rate shall not be lower than the maximum penalty charge for unauthorized daily overruns as provided for in the Federal Energy Regulatory Commission approved gas tariffs of the interstate pipelines which deliver gas into Florida. This charge is in addition to all applicable taxes, charges and assessments of the applicable Rate Schedule.

Nothing herein shall be construed to prevent the Company from taking all lawful steps to stop the unauthorized use of gas by Customer, including disconnecting Customers service. Such payment for unauthorized use of gas shall not be deemed as giving Customer or TPS any rights to use such gas.

Issued by: Carolyn Bermudez
Vice President, Florida City Gas

Effective: August 14, 2014

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FLORIDA CITY GAS
GAS CURTAILMENT PLAN
AUGUST 2018

A. Purpose

The purpose of this Gas Curtailment Plan is to maintain the Company's ability to provide Essential Gas Service, as defined below, to the broadest base of qualifying customers given limited gas supply and/or delivery capacity for as long as practicable. In the event of a conflict between this Gas Curtailment Plan and the Company's tariff, the tariff shall control.

B. Definition of Essential Gas Service

Essential Gas Service is defined as gas service to individual residential dwellings, multi-family dwellings, hotels, dormitories, schools, hospitals, day care centers, nursing homes, correctional facilities, where gas is predominantly used for residential purposes. Essential Gas Service shall also include service to public service facilities such as police, fire, emergency medical facilities, and sanitation and sewerage treatment plants. Essential Gas Service shall not include service to facilities, including those described in the previous sentence that have installed alternate fuel equipment.

C. Actions Required Before Implementation of this Gas Curtailment Plan

This Gas Curtailment Plan will be implemented only after the Company has:

1. Interrupted Off-System Sales Service ("OSS") service that would assist the Company's ability to meet demand for gas on its distribution system ,
2. Interrupted Transportation Supply Service ("TSS"),
3. Interrupted customers with Alternate Fuel Service ("AFD") discount,
4. Interrupted Contract Demand Service ("KDS")
5. Interrupted Flexible Gas Service ("FGS"),

Nothing in this Gas Curtailment Plan shall inhibit the Company from managing and scheduling interruptions in the services listed above in a manner that it determines is appropriate to meet the conditions on its system. However, the Gas Curtailment Plan Action Steps below will not go into effect until such time as all options available above have been exercised.

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FLORIDA CITY GAS
GAS CURTAILMENT PLAN
AUGUST 2018

D. Curtailment Plan Action Steps

To the extent practicable in Company's sole judgment, the following steps will be implemented by the Company in the order of priority set forth below.

1. The Company shall seek supplies from pipelines, suppliers and other gas companies.

2. The Company may request all transportation customers and their Third Party Supplier ("TPS") to maximize deliveries of gas into the Company's system and request excess deliveries be made available to the Company at a compensation price and in quantities agreed to by the parties in accordance with the terms of the Excess Deliveries Agreement which is attached here to as Appendix A.

3. The Company shall appeal to firm large industrial and commercial customers to voluntarily reduce gas consumption.

4. The Company shall appeal to its general population of customers to reduce gas consumption by reducing non-essential uses of gas, i.e., gas lights, clothes drying.

5. The Company shall declare the existence of a gas curtailment emergency on its system, which shall constitute a Force Majeure condition, and notify the Florida Public Service Commission and other appropriate state agencies and implement its Contingency Operating Plan.

6. The Company, having declared an event of Force Majeure and to the extent it is operationally feasible, shall begin curtailing individual customers in the following Service Class order, excluding those receiving Essential Gas Service, in order to protect the operational integrity of sections of its distribution system:

   Gas Light Service ("GLS"), Natural Gas
   Vehicle ("NGV"),
   Followed by the General Service ("GS") classes:
   GS-25M, GS-11M, GS-1,250k, GS120k, GS-60k, GS-20k, GS-6k,
   GS-1.2k, GS-600, GS-220 and finally GS-1 customers.

FLORIDA CITY GAS
GAS CURTAILMENT PLAN
AUGUST 2018

D. Curtailment Plan Action Steps - continued

9. The Company shall systematically curtail customers receiving Essential Gas Service employing this Gas Curtailment Plan. However, in accordance with the terms of Section 15. E "Gas Supply Obligation" of the Company's tariff, in the event that a TPS fails to deliver gas on behalf of its customers, the Company may, in its sole discretion, provide replacement gas supplies. The Company shall have no obligation to provide natural gas supplies to customers that contract for gas supply from a TPS. In the event that a customer seeks to purchase natural gas supplies from the Company, such sales may be made by the Company in its sole discretion under such terms and conditions as the Company may require.

E. Appropriation of Transportation Supplies

In the event of a natural gas supply and/or shortage, the TPS and/or transportation customers shall agree to make its natural gas supply available to the Company for Company's use during the period of such shortage. Following the period of such shortage, the Company shall replace customer's gas in kind with a like amount of gas which shall be redelivered to the Customer as follows:

(1) as the first gas through the customer's meter(s) immediately following the period of shortage until all volumes have been redelivered, or,

(2) at customer's election, as a portion of the total quantities delivered to the customer over a redelivery period beginning in the next billing month immediately following the shortage period, and continuing in each successive billing month until all volumes have been redelivered by the Company to the customer. Such redelivery period shall not exceed three months unless requested by the customer and agreed to by the Company.

Company will endeavor to give as much notice as possible to customer in the event of interruption or curtailment. Any gas taken by customer in excess of the quantity allocated to the customer in an interruption or curtailment order shall be considered to be unauthorized overrun gas. Company may bill and customer shall pay for such unauthorized overrun gas at the Unauthorized Gas Use charge per the Company's tariff.

F. Liability Exclusion

The Company shall not be liable for any damages, loss of product or other business losses suffered by customers as a result of curtailed gas service.

# Item 4

FILED 7/24/2025
DOCUMENT NO. 06826-2025
FPSC - COMMISSION CLERK

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:** July 24, 2025

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

**FROM:** Division of Economics (Bethea, Bruce, Hudson) CJD
Division of Accounting and Finance (McClelland, Norris, Sewards, Vogel)
Division of Engineering (P. Buys, Ramos, Smith II) TB
Office of the General Counsel (Dose, Augspurger, J. Crawford) JSC

**RE:** Docket No. 20250052-WS – Application for increase in water and wastewater rates in Brevard, Citrus, Duval, Highlands, Marion, and Volusia Counties by CSWR-Florida Utility Operating Company.

**AGENDA:** 08/05/25 – Regular Agenda – Decision on Suspension of Rates – Participation is at the Discretion of the Commission

**COMMISSIONERS ASSIGNED:** All Commissioners

**PREHEARING OFFICER:** Clark

**CRITICAL DATES:** (60-Day Suspension Date Waived until 9/4/2025)

**SPECIAL INSTRUCTIONS:** None

## Case Background

CSWR-Florida Utility Operating Company (CSWR or utility) is a Class A utility providing water and wastewater service to 11 systems in the following counties: Brevard, Citrus, Duval, Highlands, Marion, and Volusia. As the result of recent acquisitions and a grandfather certificate, CSWR is now a Florida domestic limited liability company that owns and operates the water and wastewater systems that are the subject of this rate case application. CSWR is a wholly-owned subsidiary of CSWR-Florida Utility Holding Company, LLC.

In 2024, the utility recorded consolidated company operating revenues of $3,853,102 for water and $3,332,319 for wastewater. CSWR reported a net operating loss of $1,436,909 for water and

$136,494 for wastewater. The utility has approximately 144,303 water customers and 87,571 wastewater customers for its combined systems. The following table reflects the rate proceeding in which rates were last established for each of CSWR's systems.

**Last Proceedings Establishing Rates for CSWR Systems**

| Former Utility Name | Order | Issuance Date |
|---|---|---|
| Aquarina Utilities, Inc. | PSC-2020-0158-PAA-WS | May 15, 2020 |
| BFF Corp. | PSC-2002-0487-PAA-SU | April 8, 2002 |
| C.F.A.T. H2O, Inc. | PSC-2011-0366-PAA-WS | August 31, 2011 |
| Neighborhood Utilities, Inc. | PSC-2016-0537-PAA-WU | November 23, 2016 |
| North Peninsula Utilities, Corp. | PSC-2019-0461-PAA-SU | October 25, 2019 |
| Rolling Oaks Utilities, Inc. | Citrus County Approved | February 1, 2022 |
| Sebring Ridge Utilities, Inc. | PSC-1996-0869-FOF-WS | July 2, 1996 |
| Sunshine Utilities, Inc. | PSC-2012-0357-PAA-WU | July 10, 2012 |
| TKCB, Inc. | PSC-2021-0435-PAA-SU | November 22, 2021 |
| Tradewinds Utilities, Inc. | PSC-2011-0385-PAA-WS | September 13, 2011 |
| Tymber Creek Utilities, Inc. | PSC-2011-0345-PAA-WS | August 16, 2011 |

During the years of 2021-2024, CSWR applied to acquire ten of the systems in this rate proceeding, and all ten transfer dockets were approved by the Commission. On August 26, 2024, CSWR applied for a grandfather certificate for Rolling Oaks Utilities, Inc. as the eleventh system. On July 21, 2025, by Order No. PSC-2025-0280-PAA-WS, the Commission approved the grandfather certificate.[1]

On May 30, 2025, CSWR filed an application for approval of interim and final water and wastewater rate increases. By letter dated June 27, 2025, staff advised the utility that its Minimum Filing Requirements (MFRs) had several deficiencies. The deadline to correct those deficiencies is July 28, 2025. To date, the official date of filing has not been established for noticing purposes.

The utility's application for increased final water and wastewater rates is based on the historical 12-month period ended January 31, 2025, with requested capital recovery for facility improvements, since the time of acquisitions. Additionally, the utility requested a single, consolidated rate structure.

CSWR requested interim rates for all of its systems, designed to generate additional revenues of $2,279,365 for water operations and $225,973 for wastewater operations.

CSWR requested final rates designed to generate additional revenues of $3,223,769 for water operations and $954,881 for wastewater operations.

[1] Order No. PSC-2025-0280-PAA-WS, issued July 21, 2025, in Docket No. 20240130-WS, *In re: Application for grandfather certificate to operate water and wastewater utility in Citrus County, by CSWR-Florida Utility Operating Company, LLC.*.

The intervention of the Office of Public Counsel (OPC) was acknowledged by Order No. PSC-2025-0113-PCO-WS, issued April 7, 2025, in this docket.

The original 60-day statutory deadline for the Commission to suspend the utility's requested final rates and address its interim rate request was August 5, 2025. However, by letter dated June 30, 2025, the utility agreed to extend the statutory time frame to September 4, 2025, by which the Commission is required to address the suspension of CSWR's final rates and its interim rate request. This recommendation addresses the suspension of the utility's requested final rates. A subsequent recommendation will be filed to address the requested interim rates on August 22, 2025, for the September 4, 2025 Commission Conference. The Commission has jurisdiction pursuant to Sections 367.081 and 367.082, F.S.

## Discussion of Issues

***Issue 1:*** Should the utility's proposed final water and wastewater rates be suspended?

***Recommendation:*** Yes. The utility's proposed final water and wastewater rates should be suspended. (Bethea)

***Staff Analysis:*** Section 367.081(6), F.S., provides that the rates proposed by the utility shall become effective within sixty days after filing unless the Commission votes to withhold consent of implementation of the requested rates. The order reflecting such a vote shall state a reason or statement of good cause for the withholding of consent.

Staff has reviewed the filing and has considered the proposed rates, the revenues thereby generated, and the information filed in support of the rate application. Staff believes that it is reasonable and necessary to require further amplification and explanation regarding this data, and to require production of additional and/or corroborative data. This further examination will include a review by staff accountants and engineers. Staff believes discovery requests will be necessary. Therefore, staff recommends suspension of the utility's proposed rate increase to allow staff and any intervenors sufficient time to adequately and thoroughly examine the appropriateness of the utility's request for final rate relief. Staff believes these reasons constitute good cause under Section 367.081(6), F.S.

***Issue 2:*** Should this docket be closed?

***Recommendation:*** The docket should remain open pending the Commission's final action on the Utility's requested rate increase. (Dose)

***Staff Analysis:*** The docket should remain open pending the Commission's final action on the Utility's requested rate increase.