

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF DELAWARE

IN THE MATTER OF THE APPLICATION OF)
CHESAPEAKE UTILITIES CORPORATION FOR)
APPROVAL OF A CHANGE IN ITS) PSC DOCKET NO. 05-385
ENVIRONMENTAL REMEDIATION EXPENSE)
RIDER RATE TO BE EFFECTIVE DECEMBER 1,)
2005 (FILED NOVEMBER 1, 2005))

ORDER NO. 6898

AND NOW, this 9th day of May, 2006;

WHEREAS, the Commission has received and considered the Findings and Recommendations of the Hearing Examiner issued in the above-captioned docket, which was submitted after a duly noticed public evidentiary hearing, and which is attached to the original hereof as Attachment "A";

AND WHEREAS, the Hearing Examiner recommends that the Commission approve the decrease in the Environmental Rider Rate proposed by Chesapeake Utilities Corporation in its November 1, 2005 application, from a surcharge of \$0.0063 per CCF to a surcharge of \$0.0018 per CCF, effective for services provided on and after December 1, 2005; now, therefore,

IT IS ORDERED:

1. That, by and in accordance with the affirmative vote of a majority of the Commissioners, the Commission hereby adopts the April 24, 2006 Findings and Recommendations of the Hearing Examiner, appended to the original hereof as Attachment "A".

2. That the Company's proposed Environmental Rider Rate of \$0.0018 per CCF, which represents a decrease of 0.0045 per CCF, is

approved as a just and reasonable rate, effective for services provided on and after December 1, 2005.

3. That the Commission reserves the jurisdiction and authority to enter such further Orders in this matter as may be deemed necessary or proper.

BY ORDER OF THE COMMISSION:

/s/ Arnetta McRae
Chair

/s/ Joann T. Conaway
Commissioner

/s/ Dallas Winslow
Commissioner

/s/ Jaymes B. Lester
Commissioner

/s/ Jeffrey J. Clark
Commissioner

ATTEST:

/s/ Karen J. Nickerson
Secretary

A T T A C H M E N T "A"

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(FILED NOVEMBER 1, 2005)

FINDINGS AND RECOMMENDATIONS OF THE HEARING EXAMINER

DATED: APRIL 20, 2006

WILLIAM F. O'BRIEN
HEARING EXAMINER

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FINDINGS AND RECOMMENDATIONS OF THE HEARING EXAMINER

William F. O'Brien, duly appointed Hearing Examiner in this Docket pursuant to 26 Del. C. § 502 and 29 Del. C. Ch. 101, by Commission Order No. 6765, dated November 8, 2005, reports to the Public Service Commission ("Commission") as follows:

I. APPEARANCES

On behalf of the Applicant, Chesapeake Utilities Corporation - Delaware Division ("Chesapeake" or "Company"):

Parkowski, Guerke & Swayze, P.A.,
BY: WILLIAM A. DENMAN, ESQUIRE

On behalf of the Public Service Commission Staff ("Staff"):

Murphy, Spadaro & Landon
BY: FRANCIS J. MURPHY, ESQUIRE

II. BACKGROUND

1. On November 1, 2005, Chesapeake applied to the Commission for approval of a decrease to its Environmental Rider Rate ("ERR") from a surcharge of \$0.0063 per CCF to a surcharge of \$0.0018 per CCF, effective for services provided on and after December 1, 2005. The Company made this filing pursuant to the environmental remediation

recovery mechanism approved by the Commission in PSC Order No. 4104 (Dec. 19, 1995) in PSC Docket No. 95-73.

2. Under the proposed rates, residential space heating customers using 120 CCF of gas in the winter months would experience a decrease of \$0.54 or 0.2%, in monthly gas billings over the rate in effect prior to December 1, 2005.

3. Pursuant to 26 *Del. C.* §§ 304 and 306, the Commission, in Order No. 6765 (Nov. 8, 2005), permitted the proposed rate change to go into effect on December 1, 2005, on a temporary basis subject to refund, pending full evidentiary hearings. The Commission designated this Hearing Examiner to conduct such hearings and to report to the Commission proposed findings and recommendations based on the evidence presented.

4. A duly noticed¹ public evidentiary hearing was conducted on April 5, 2006, in the Commission's Dover office. No members of the public attended the hearing or submitted written comments. The Company and Staff each presented one witness, each of whom adopted prefiled written direct testimony and were presented for cross-examination. The record, as developed at the hearing, consists of a 17-page verbatim transcript and three exhibits. As there were no issues in dispute, post-hearing briefs were deemed unnecessary.

5. I have considered all of the record evidence and, based thereon, I submit for the Commission's consideration these findings and recommendations.

¹ The affidavits of publication of notice from the *Delaware State News* and *The News Journal* are included in the record as Exhibit 1. Exhibits will be cited as "Ex.____" and references to the hearing transcript will be cited as "Tr.____."

... (footnote continued to next page.)

III. SUMMARY OF THE EVIDENCE

6. Jennifer A. Clausius, Manager for Pricing and Regulation for Chesapeake, submitted pre-filed direct testimony, dated November 1, 2005. (Ex. 2.) Because Ms. Clausius was unable to attend the hearing, Jeffrey R. Tietbohl, Director of Business Planning and Development, adopted her testimony as his own. (Tr. 9.) Mr. Tietbohl described the purpose of the ERR and provided calculations to support the Company's proposed change in the ERR from \$0.0063 per CCF to \$0.0018 per CCF. According to Mr. Tietbohl, the purpose of the ERR is to allow Chesapeake to recover environmental expenses associated with cleaning up former manufactured gas plant ("MGP") sites, which for this filing includes the Dover Gas Light Site and the Smyrna Gas Plant Site. (Ex. 2 at 4.) Recoverable environmental costs include investigation, testing, monitoring, remediation (including remediation of the groundwater), land acquisition, and legal costs relating to former MGP sites, disposal sites, or sites to which material may have migrated as a result of the earlier operation or decommission of the plants.

7. Mr. Tietbohl testified that the reason for the proposed decrease in the ERR is that the Company did not incur any expenses during the applicable time period (*i.e.*, October 1, 2004, to September 30, 2005) because its obligations with respect to the Dover Gas Light Site ended upon the approval of a Consent Decree by the U.S. District Court on July 18, 2003. (Ex. 2 at 7.) In addition, Chesapeake received a net payment in August 2003 of \$1,150,00 as a result of the settlement of its litigation against GPU, Inc., which was approved by

the Court in July 2003. Because the ERR expenses are amortized over five years, there is still a positive ERR surcharge reflecting prior-year expenses, despite the incurrence of no expenses during the applicable period.

8. David N. Bloom, a Public Utilities Analyst for Commission Staff, submitted pre-filed direct testimony, dated February 2, 2006. (Ex. 3.) Mr. Bloom testified that Staff reviewed the Company's ERR schedules and calculations and concluded that the calculations were correct and the requested rate was appropriate. No audit of the Company's accounts was necessary as there were no expenses claimed. Based on its review, Staff recommended approval of the Company's application.

IV. DISCUSSION

9. The Commission has jurisdiction in this matter pursuant to 26 Del. C. § 304.

10. As discussed above, Staff verified that Chesapeake developed the proposed ERR rate in accordance with the environmental remediation recovery mechanism approved by the Commission in PSC Order No. 4104 (Dec. 19, 1995) in PSC Docket No. 95-73. The Company did not incur any ERR expenses during the applicable time period (*i.e.*, October 1, 2004, to September 30, 2005), but because the five-year amortization of the existing balance has not been completed, a small surcharge remains. Based on the Company's supporting testimony and documentation, and on Staff's favorable recommendation, I find that the proposed rate is just and reasonable and in compliance with the Company's tariff. I recommend, therefore, that the Commission approve the ERR rate as proposed in the Company's application, or \$0.0018 per CCF.

V. RECOMMENDATION

20. In summary, and for the reasons discussed above, I propose and recommend that the Commission approve as just and reasonable the Company's proposed decrease in its ERR, from a surcharge of \$0.0063 per CCF to a surcharge of \$0.0018 per CCF, effective for services provided on and after December 1, 2005. A proposed Order, which will implement the foregoing recommendations, is attached hereto.

Respectfully submitted,

/s/ William F. O'Brien
William F. O'Brien
Hearing Examiner

Dated: April 20, 2006

