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 GAS SALES SERVICE RATES ("GSR") TO BE EFFECTIVE APRIL 1, 2003 (FILED MARCH 4, 2003)	))))))	PSC DOCKET NO. 03-90F

ORDER NO. 6306

AND NOW, this 25th day of November, A.D. 2003;

WHEREAS, on March 4, 2003, Chesapeake Utilities Corporation-Delaware Division ("Chesapeake") applied to the Public Service Commission of the State of Delaware ("Commission") for approval of changes in its Gas Sales Service Rates ("GSR") to be effective for service rendered on and after April 1, 2003. In Order No. 6123, issued March 18, 2003, the Commission permitted, on a temporary basis and subject to refund, the proposed tariff to be effective for usage on and after April 1, 2003, and assigned this proceeding to a Hearing Examiner to preside over hearings and to prepare Findings and Recommendations;

AND WHEREAS, on August 27, 2003, all the parties in the proceeding jointly submitted to the Hearing Examiner a "Proposed Settlement" in order to resolve this proceeding, a copy of which is appended as Appendix "A" to the Hearing Examiner's Report, which is Attachment "A" to the original Order;

AND WHEREAS, the Commission has received and considered the Findings and Recommendations of Hearing Examiner Robert P. Haynes, dated October 21, 2003. The Hearing Examiner, after holding a duly

noticed formal hearing, recommended approval of the Proposed Settlement as reasonable, adequately supported, and consistent with the public interest;

AND WHEREAS, no party filed exceptions to the Findings and Recommendations of the Hearing Examiner;

AND WHEREAS, we act, upon a hearing on this date, and find and conclude that the report of the Hearing Examiner should be adopted.

IT IS ORDERED:

1. That, upon a hearing and by and in accordance with the affirmative vote of a majority of the Commissioners, the Commission hereby adopts the October 21, 2003 Findings and Recommendations of the Hearing Examiner, appended to the original hereof as Attachment "A", which recommends approval of the parties' "Proposed Settlement," dated August 27, 2003.

2. That the Company's Gas Sales Rates, as filed, be approved as just and reasonable rates effective for service on and after April 1, 2003, and as set forth below:

a) Gas Sales Service Rate of $0.870 per hundred cubic feet ("Ccf") of natural gas for rate schedules RS, GS, MVS, and LVS;

b) Gas Sales Service Rate of $0.699 per Ccf for rate schedules GLR, GLO, GCR, and GCO; and

c) Gas Sales Service Rate of $0.807 per Ccf for rate schedules HLFS and SFS.

3. That the Proposed Settlement, dated August 27, 2003, be approved, and its provisions are incorporated herein in their entirety.

4. 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/ Joshua M. Twilley
Vice Chair

/s/ Joann T. Conaway
Commissioner

/s/ Jaymes B. Lester
Commissioner

/s/ Donald J. Puglisi
Commissioner

ATTEST:

/s/ Karen J. Nickerson
Secretary

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

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FINDINGS AND RECOMMENDATIONS
OF THE
HEARING EXAMINER

DATED: October 21, 2003

Robert P. Haynes
Hearing Examiner

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Appendix A Proposed Settlement Error! Bookmark not defined.

Appendix B Draft Order Error! Bookmark not defined.

Findings and Recommendations of the Hearing Examiner

Robert P. Haynes, duly appointed Hearing Examiner in this Docket pursuant to 26 Del. C. §502 and 29 Del. C. Ch. 101, by Commission Order No. 6123, dated March 18, 2003, reports to the Commission as follows:

I. Appearances

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

Murphy, Spadaro & Landon
By: Francis J. Murphy, Esquire

On behalf of Chesapeake Utilities Corporation—Delaware Division ("Chesapeake" or "Company"):

Parkowski & Guerke
By: William A. Denman, Esquire

II. Procedural History

5. On March 4, 2003, Chesapeake applied to the Public Service Commission of the State of Delaware ("Commission") for approval of changes in its Gas Sales Service Rates ("GSR") to be effective for service rendered on and after April 1, 2003. Chesapeake also requested a waiver of its tariff provision that requires the Company to file for revised rates if the use of current rates for the twelve-month over/under period will result in an under-collection exceeding 6%.

6. The proposed tariff sought to increase the Gas Sales Service Rate for customers taking service under rate schedules RS, GS, MVS, and LVS to $0.870 per hundred cubic feet ("Ccf" of natural gas); to increase its Gas Sales

Service Rate for customers taking service under rate schedules GLR, GLO, GCR, and GCO to $0.699 per Ccf; and to increase its Gas Sales Service Rate for customers taking service under rate schedules HLFS and SFS to $0.807 per Ccf.

7. In Order No. 6123, issued March 18, 2003, the Commission permitted, on a temporary basis and subject to refund, the proposed tariff to be effective for usage on and after April 1, 2003, subject to full evidentiary hearings and a final decision by the Commission. The Commission waived the sixty (60) day requirement set forth in 26 Del. C. § 304, directed the publication of public notice, and assigned the proceeding to this Hearing Examiner to preside over hearings and to prepare a report of Findings and Recommendations. No person sought to intervene in this proceeding.

8. Pursuant to a procedural schedule, Staff submitted direct testimony and the Company submitted rebuttal thereto. A duly noticed, formal, on-the-record evidentiary and public comment hearing was held on August 27, 2003 in the Commission's offices.

9. At the hearing, the parties informed this Hearing Examiner that they had been successful in reaching a settlement to resolve all issues in the proceeding. Consequently, the pre-filed testimony and exhibits were admitted into the record without cross-examination, and Company witness Tietbohl and Staff witness Jegede presented oral testimony supporting the terms of the Proposed

Settlement, a copy of which is attached hereto as Appendix "A".

10. The hearing record, as approved herein, consists of thirty-two pages of verbatim transcripts and six exhibits, including the pre-filed testimony of the Company and Staff witnesses. No member of the public appeared at the hearing.

11. Since the "Proposed Settlement" resolved all disputed issues between the Company and Staff, no post-hearing briefs were required.

12. I have considered the record of this proceeding and based thereon, I submit for the Commission’s consideration these findings and recommendations.

III. Summary of the Evidence

13. The Company supported its application through the pre-filed direct testimony and exhibits by the following witnesses: Jennifer A. Clausius, Rate Analysis, Exhibit ("Ex.") 2, and Jeffrey R. Tietbohl, Controller, Ex. 3. Ms. Clausius testified on the application's calculation of the proposed rates, the forecasted demand and commodity's costs, and the forecasted firm, interruptible and total sales volumes. Mr. Tietbohl testified on the proposed rates and the changes to the margin sharing mechanism as a result of a settlement in PSC Docket No. 01-307, Phase II.

14. On July 8, 2003, Staff submitted the pre-filed direct testimony of Funmi I. Jegede, Public Utilities

Analyst. Ex. 6. Ms. Jegede testified to her review of the Company's application, and her conclusion that the proposed rates were accurately calculated and were otherwise reasonable. She also recommended that the Company only make one regular GSR filing annually to go into effect on October 1 after sixty days notice, and file on April 1 an informational filing. She explained her recommendation as prompted by the overlap in the bi-annual filings, reducing regulatory expense, the absence of gas competition that otherwise would justify establishing rates with real time, or market cost, prices, and the fact that the Company must make out-of-cycle filings whenever its over/under collection balances vary by more than that allowed. Finally, she stated her reservation of further testimony pending the outcome of the Company's response to the use of a formal hedging program that was addressed in the prior GSR case in Docket No. 02-287F.

15. The Company submitted pre-filed rebuttal testimony by Mr. Tietbohl that addressed Staff's recommendation to reduce the GSR filings from two to one a year and the amount of notice before an annual filing went into effect. Ex. 4. Mr. Tietbohl explained that the Company did not oppose having only one regular GSR filing a year, but that thirty days' notice was all that should be required. The reason, he explained, was actual price/cost information would not be available under Staff's proposed sixty days' filing before an October 1 effective date. He also opposed Staff's

proposal for an informational filing to be made April 1 because of the tremendous amount of effort required to compile information for such a filing. Finally, he disputed Staff's testimony that reflecting market conditions was not important since there was no competition by stating that the GSR should reflect current market conditions and that there is a viable market for competitive gas to transportation customers. Consequently, he proposed to reduce the tolerance level for undercollections from 6% to 4.5%, or the same level for overcollections, for filing an out-of-cycle GSR.

16. The August 27, 2003 Proposed Settlement (Ex. 4), if adopted, would resolve the above testimony. The Proposed Settlement would allow a single, annual GSR filing to go into effect November 1 of each year, after sixty days' notice. The Proposed Settlement would use a November 1 to October 31 twelve-month time period for measuring the under/over collection balances, and that the first filing would have these balances prorated. The Proposed Settlement seeks approval of the rates as filed by the Company.

IV. Discussion

17. The most notable term in the Proposed Settlement is its provision to change to a single, annual GSR filing as opposed to filing twice a year under the current tariff. The record does not explain the reasons behind the bi-annual filings, which may allow gas cost changes to be made sooner and may allow the GSR to better track actual gas costs. The use of two filings is not needed to more accurately track

costs because an out-of-cycle filing will be required whenever the tariff's over/under collection tolerances are exceeded. The current twice a year filing is not supported by tracking seasonal changes in gas costs since both the Fall and Spring filings use twelve months of gas costs in developing the rates. I agree that, absent reflecting any seasonal gas cost changes in the current two filings, a single filing makes sense to reduce regulatory costs borne by the Company and its customers. No informational filing should be made for the same reason.

18. The Proposed Settlement does not change the tolerance for the undercollection balance, which the Company raised for the first time in its rebuttal testimony. I agree that no change is warranted here, and that any change should be considered in a future filing, and not as the result of the Company's rebuttal case.

19. The Proposed Settlement approves the proposed rates and the record contains no evidence to disturb this result. Instead, the record contains sufficient evidence that the proposed rates are just and reasonable.

20. The Proposed Settlement imposes a sixty-day notice requirement upon the Company. The Company agreed to this change, and more time to review should benefit the Commission's Staff review and the Company's customers. The Proposed Settlement changes the effective date to November 1, as opposed to October 1, and this change presumably satisfies the Company's concern with a sixty-day notice.

Thus, this provision of the Proposed Settlement should be adopted.

21. The Proposed Settlement is reasonable, adequately supported and consistent with the public interest. The result is that the average heating customer using 120 Ccf a month during the winter heating season will experience an increase of $18.60 per month, or 13.70% more, and $114.70 annually, or 12.25% more. Accordingly, I recommend its approval.

IV. Recommendations

22. Based upon the record developed, and for the reasons discussed above, I recommend to the Commission that it issue as its final Order the draft attached hereto as Appendix "B."

Respectively submitted,

Robert P. Haynes

Dated: October 21, 2003

Robert P. Haynes
Hearing Examiner

A P P E N D I X "A"

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PROPOSED SETTLEMENT

On this 27th day of August, 2003, Chesapeake Utilities Corporation, a Delaware corporation (hereinafter "Chesapeake" or the "Company"), and the other undersigned parties (all of whom together are the "Settling Parties") hereby propose a settlement that, in the Settling Parties' view, appropriately resolves all issues raised in this proceeding.

I. INTRODUCTION

1. On March 4, 2003, Chesapeake filed with the Delaware Public Service Commission (the "Commission") an application for a change in its Gas Sales Service Rates to be effective for service rendered on and after April 1, 2003.

2. On or about July 8, 2003, the Commission Staff (the "Staff") filed its testimony and recommended the approval of Chesapeake's request to increase Chesapeake's Gas Sales Service Rates. In addition, the Staff made certain other recommendations relating to the timing of future applications for changes to Chesapeake's Gas Sales Service Rates.

3. Subsequently, on August 12, 2003, Chesapeake filed its rebuttal testimony in this docket pursuant to which it took issue with certain recommendations of the Staff regarding the timing of future Gas Sales Service Rate applications.

4. During the course of this proceeding, the parties have conducted written discovery in the form of both informal and formal data requests.

5. The Settling Parties have conferred in an effort to resolve the issues raised in this proceeding. The Settling Parties acknowledge that the parties differ as to the proper resolution of some of the underlying issues in this proceeding. Notwithstanding these differences, the Settling Parties have agreed to enter into this Proposed Settlement on the terms and conditions contained herein, because they believe that this Proposed Settlement will serve the interest of the public and the Company, while meeting the statutory requirement that rates be both just and reasonable.

II. SETTLEMENT PROVISIONS

6. The Settling Parties agree and recommend to the Commission that the Commission approve Chesapeake's request for an increase in its three separate Gas Sales Service Rate levels, effective April 1, 2003, to the following: $0.870 per Ccf for customers served under rate schedules RS, GS, MVS, and LVS, $0.699 per Ccf for customers served under rate schedules GLR, GLO, GCR and GCO, and $0.807 per Ccf for customers served under rate schedules HLFS and SFS.

7. The Settling Parties agree that Chesapeake's tariff shall be amended to provide for an annual adjustment to Chesapeake's Gas

Sales Service Rates, as opposed to the current bi-annual adjustment, with a regularly scheduled adjustment effective date of November 1, and that Chesapeake shall file a copy of its application to change its Gas Sales Service Rates sixty (60) days prior to November 1. The Settling Parties further agree that with the rates effective November 1, 2004, Chesapeake's margin sharing determination period and over/under collection period shall be the twelve month period of November 1 through October 31. For purposes of the initial filing on or about September 1, 2004, Chesapeake will include a projected over/ under collection balance as of October 31, 2003 as well as a prorated margin sharing credit for the same time period. A copy of Chesapeake's revised tariff sheet incorporating the agreed upon changes is attached hereto as Exhibit A.

8. While at this time the Settling Parties agree to make one regularly scheduled GSR application per year, the Settling Parties reserve the right, in any future proceedings, to propose any modifications or revisions to the GSR processes and procedures to ensure that the GSR charges are reflective of the existing market conditions at that time as well as the cost of providing the service.

III. STANDARD PROVISIONS AND RESERVATIONS

9. The provisions of this Proposed Settlement are not severable.

10. This Proposed Settlement recommends a compromise for the purposes of settlement and shall not be regarded as a precedent with respect to any rate making or any other principle in any future case

or in any existing proceeding, except that, consistent with and subject to the provisos expressly set forth below, this Proposed Settlement shall preclude any Settling Party from taking a contrary position with respect to issues specifically addressed and resolved herein in proceedings involving the review of this Proposed Settlement and any appeals related to this Proposed Settlement. No party to this Proposed Settlement necessarily agrees or disagrees with the treatment of any particular item, any procedure followed, or the resolution of any particular issue addressed in this Proposed Settlement other than as specified herein, except that each Settling Party agrees that the Proposed Settlement may be submitted to the Commission for a determination that it is in the public interest and that no Settling Party will oppose such a determination. Except as expressly set forth below, none of the Settling Parties waives any rights it may have to take any position in future proceedings regarding the issues in this proceeding, including positions contrary to positions taken herein or previously taken.

11. In the event that this Proposed Settlement does not become final, either because it is not approved by the Commission or because it is the subject of a successful appeal and remand, each of the Settling Parties reserves its respective rights to submit additional testimony, file briefs, or otherwise take positions as it deems appropriate in its sole discretion to litigate the issues in this proceeding.

12. The Proposed Settlement will become effective upon the Commission's issuance of a final order approving this Proposed

Settlement and all the settlement terms and conditions without modification. After the issuance of such final order, the terms of this Proposed Settlement shall be implemented and enforceable notwithstanding the pendency of a legal challenge to the Commission's approval of this Proposed Settlement or to actions taken by another regulatory agency or Court, unless such implementation and enforcement is stayed or enjoined by the Commission, another regulatory agency, or a Court having jurisdiction over the matter.

13. The obligations under this Proposed Settlement, if any, that apply for a specific term set forth herein shall expire automatically in accordance with the term specified, and shall require no further action for their expiration.

14. The Settling Parties may enforce this Proposed Settlement through any appropriate action before the Commission or through any other available remedy. The Settling Parties shall consider any final Commission order related to the enforcement or interpretation of this Proposed Settlement as an appealable order to the Superior Court of the State of Delaware. This shall be in addition to any other available remedy at law or in equity.

15. If a Court grants a legal challenge to the Commission's approval of this Proposed Settlement and issues a final non-appealable order which prevents or precludes implementation of any material term of this Proposed Settlement, or if some other legal bar has the same effect, then this Proposed Settlement is voidable upon written notice by any of the Settling Parties.

16. This Proposed Settlement resolves all of the issues specifically addressed herein and precludes the Settling Parties from asserting contrary positions during subsequent litigation in this proceeding or related appeals; provided, however, that this Proposed Settlement is made without admission against or prejudice to any factual or legal positions which any of the Settling Parties may assert (a) in the event that the Commission does not issue a final, non-appealable order approving this Proposed Settlement without modifications; or (b) in other proceedings before the Commission or other governmental body so long as such positions do not attempt to abrogate this Proposed Settlement. This Proposed Settlement is determinative and conclusive of all of the issues addressed herein and, upon approval by the Commission, shall constitute a final adjudication as to the Settling Parties of all of the issues in this proceeding.

17. This Proposed Settlement is expressly conditioned upon the Commission's approval of all of the specific terms and conditions contained herein without modification. If the Commission should fail to grant such approval, or should modify any of the terms and conditions herein, this Proposed Settlement will terminate and be of no force and effect, unless the Settling Parties agree to waive the application of this provision. The Settling Parties will make their best efforts to support this Proposed Settlement and to secure its approval by the Commission.

18. It is expressly understood and agreed that this Proposed Settlement constitutes a negotiated resolution of the issues in this proceeding and any related court appeals.

IV. CONCLUSION

IN WITNESS WHEREOF, intending to legally bind themselves and their successors and assigns, the undersigned parties have caused this Proposed Settlement to be signed by their duly authorized representatives.

Chesapeake Utilities Corporation

By: /s/ C. James Moore A.V.P.

Delaware Public Service Commission Staff

By: /s/ Connie S. McDowell