

**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 ) PSC DOCKET NO. 09-398F  
SERVICE RATES ("GSR") TO BE EFFECTIVE )  
NOVEMBER 1, 2009 (FILED SEPTEMBER 4, )  
2009)

**ORDER NO. 7837**

**AND NOW**, this 7th day of September, 2010;

**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 Gas Sales Service Rates ("GSR") proposed by Chesapeake Utilities Corporation in its September 4, 2009 Application be approved as just and reasonable and in the public interest for service rendered on and after November 1, 2009;

**AND WHEREAS**, the Hearing Examiner recommends that the Proposed Settlement Agreement dated April 8, 2010, which is endorsed by all the parties, and which is attached to the original hereof as Attachment "B", be approved as just and reasonable and in the public interest;

**NOW, THEREFORE, IT IS HEREBY ORDERED BY THE AFFIRMATIVE VOTE OF  
NO FEWER THAN THREE COMMISSIONERS:**

1. That, by and in accordance with the affirmative vote of a majority of the Commissioners, the Commission hereby adopts the August 27, 2010 Findings and Recommendations of the Hearing Examiner, appended to the original hereof as Attachment "A."

2. That the Commission approves as just and reasonable and in the public interest the jointly Proposed Settlement of the parties, appended to the original hereof as Attachment "B", and Chesapeake Utilities Corporation's proposed GSR rates.

3. That Chesapeake Utilities Corporation's proposed rates are approved as just and reasonable rates, effective as set forth below:

Service	<u>Effective for Service Rendered On and After</u> <u>November 1, 2009</u>
RS-1, RS-2, GS, MVS, LVS	\$0.956
GLR, GLO	\$0.645
HLFS	\$0.797
Firm Balancing Rate (LVS)	\$0.056
Firm Balancing Rate (HLFS)	\$0.007
Firm Balancing Rate (ITS)	\$0.002

4. That all Tariff revisions filed by the Company on October 12, 2009 and October 14, 2009, and the revised rates and charges contained therein are approved, shall be effective on a permanent basis for gas service rendered on or after November 1, 2009, until further Order of the Commission. Within five (5) business days

following the date of this Order, the Company shall file revised Tariffs which comply with this Order.

5. 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:

\_\_\_\_\_  
Chair

\_\_\_\_\_  
Commissioner

\_\_\_\_\_  
Commissioner

\_\_\_\_\_  
Commissioner

\_\_\_\_\_  
Commissioner

ATTEST:

\_\_\_\_\_  
Secretary

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**FINDINGS AND RECOMMENDATIONS OF THE HEARING EXAMINER**

DATED: August 27, 2010

Ruth Ann Price  
SENIOR HEARING EXAMINER

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**FINDINGS AND RECOMMENDATIONS OF THE HEARING EXAMINER**

Ruth Ann Price, duly appointed Hearing Examiner in this Docket, pursuant to 26 *Del. C.* §502 and 29 *Del. Ch.* 101, and by Commission Order No.7665 dated October 6, 2009, reports to the 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  
Jennifer A. Clausius, Manager of Pricing and Regulation  
Michael D. Cassel, Regulatory Analyst  
Marie E. Kozel, Gas Supply Analyst

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

BY: REGINA A. IORRI, ESQUIRE, Deputy Attorney General  
Funmi I. Jegede, Public Utility Analyst  
Richard W. LeLash, Consultant

On behalf of the Division of the Public Advocate ("DPA"):

G. ARTHUR PADMORE, PUBLIC ADVOCATE  
MICHAEL D. SHEEHY, DEPUTY PUBLIC ADVOCATE  
KENT WALKER, ESQ., Deputy Attorney General  
Andrea C. Crane, The Columbia Group, Inc., Consultant

## II. BACKGROUND

### A. APPLICATION

1. On September 4, 2009, Chesapeake applied to the Delaware Public Service Commission ("Commission") for approval of changes to its Gas Sales Service Rates ("GSR") to become effective for gas service provided from November 1, 2009 through October 31, 2010. (Exh. 2.) The proposed rates, as compared to the rates in effect since February 1, 2009, are as follows (per Ccf):

Service Classification	Effective 02/01/09 (approved)	Effective 11/01/09 (proposed)
RS-1, RS-2, GS, MVS, LVS	\$1.243	\$0.956
GLR, GLO	\$1.013	\$0.645
HLFS	\$1.172	\$0.797
Firm Balancing Rate	\$0.060	\$0.056 (LVS)
Firm Balancing Rate (HLFS)	\$0.019	\$0.007
Interruptible Balancing Rate (ITS)	\$0.004	\$0.002

According to Chesapeake, under the proposed rates, an average RS-2 residential heating customers using 700 Ccf of gas per year would experience a decrease of \$17.00 (or 16%) in average monthly, winter gas billings when compared with the rate in effect prior to November 1, 2009. (See Company's Application, Exh. 3, §3.) Under the proposed rates, the Company also sought changes to its balancing rates. (*Id.* at §4.) Finally, Chesapeake sought a waiver of the sixty (60) day notice requirement contained in 26 Del. C. §304(a), allowing the new rates to become effective on November 1, 2009.





2. Pursuant to 26 Del. C. §§304 and 306, the Commission, by Order No. 7665 (Oct. 6, 2009), permitted the above proposed rate changes to go into effect on November 1, 2009, on a temporary basis subject to refund, pending full evidentiary hearings. In Order No. 7665, the Commission also designated this Hearing Examiner to conduct hearings and report to the Commission with proposed findings and recommendations based on the evidence presented.

3. Chesapeake's Tariff No. 42 requires the Company to file an "out-of-cycle" GSR application when the Company estimates that its over-collection of gas costs will exceed four and one-half percent (4 1/2%) of the projected firm cost of gas for the collection period. The Company estimated an over-collection exceeding four and one-half percent for the twelve (12) month period ending October, 2009.<sup>1</sup> (See Exh. 11, at 9, LL 19-21, p. 10, LL 1-20; see also Exh. 7, at 21 LL 14-17.)

#### **B. PUBLIC COMMENT SESSION**

4. A duly-noticed<sup>2</sup> Public Comment Session concerning the Company's Application was held in Dover on November 10, 2009, at 7:00 p.m. No members of the public attended.

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<sup>1</sup> Ms. Jegede noted that as of the date of her testimony, the Company anticipated that the projected over-collection for the period ending October 2010 was anticipated to change to an undercollection of approximately \$292,206 or 0.69%. (Exh. 11 at 11, LL 18-15.)

<sup>2</sup>The various Affidavits of Publication of Notices from the *Delaware State News* and *The News Journal* newspapers are included in the record as composite Exhibit 1. Hearing Exhibits will be cited as "Exh. \_\_\_" and references to the evidentiary hearing transcript will be cited as "Tr.-\_\_\_."

### **III. SUMMARY OF THE EVIDENCE**

#### **A. EVIDENTIARY HEARING**

5. The Commission has jurisdiction in this matter pursuant to 26 *Del. C.* §303(b).

6. The evidentiary hearing was originally scheduled for April 1, 2010. However, I continued the hearing until May 19, 2010 to allow the parties to continue their settlement negotiations. The record, as developed at the May 19 evidentiary hearing, consists of a verbatim transcript of forty-three (43) pages and eleven (11) hearing exhibits. The parties stipulated to the admissibility of all notices and the prefiled testimonies. (Tr. 21,22.)

#### **B. CHESAPEAKE'S DIRECT TESTIMONY**

7. The Company prefiled the direct testimonies of Jennifer Clausius, Manager of Pricing and Regulation (Exh. 4); Michael D. Cassel, Regulatory Analyst III (Exh. 6) and Marie E. Kozel, Gas Supply Analyst II (Exh. 8). In addition, the Company prefiled the rebuttal testimonies of Jennifer Clausius (Exh. 5) and Michael D. Cassel (Exh. 7).

**8. Testimony OF Jennifer A. Clausius.** Jennifer A. Clausius, Chesapeake's Manager of Pricing and Regulation, submitted pre-filed direct testimony dated September 4, 2009. (Exh. 4.) Ms. Clausius' testimony was submitted in support of the Company's calculation of the proposed GSR and balancing rates contained in the Company's Application. (Exh. 3 at 4, LL 1-5.) The proposed GSR and balancing rates would be effective for service rendered on or after

November 1, 2009. (*Id.*) These rates are based upon projected sales data and gas costs for the twelve-month period of November, 2009 through October, 2010. (Exh. 6, 5, LL 13-15; Exh. 3, Schedule A.1.)

9. According to the Company, the proposed decrease in GSR rates reflects an anticipated decrease of \$13,328,271 in variable gas costs since the Company's GSR last changed on February 1, 2009. (Exh. 6 at 6, LL 4-11.) However, this variable or commodity gas cost decrease is somewhat offset by an anticipated \$1,943,717 increase in the Company's fixed gas costs. (*Id.* at 6, LL 12-14.) The increase in fixed costs is primarily attributable to the cost of the Company's increased daily firm transportation entitlements on the Transcontinental Gas Pipeline ("Transco"), the Columbia Gas Transmission Pipeline ("Columbia"), and the Eastern Shore Natural Gas Company's Pipeline. ("ESNG") (*Id.* at LL 14-18.)

**10. Margin Sharing.** Ms. Clausius also testified regarding the Company's revenue margin sharing requirements. (Exh. 4 at 12, 13, LL 1-7.) She stated that "the Company believes crediting 100% of the capacity released for the Delaware Division's firm transportation customers to the firm sales customers is appropriate due to the market on Eastern Shore for this capacity. The Company credits 100% of any other Eastern Shore capacity releases to the firm sales customers." Exh. 4 at 12, LL 7-10. Further, effective November 1, 2009, the Company is required to credit to the GSR 90% of the capacity valuation margin received from its Asset Manager. Exh. 4 at 12, LL 17-22.

11. According to Ms. Clausius, "the Company is no longer required to share margins received from interruptible transportation

customers.” (Exh. 4 at 7, LL 2-3.) The only margins received are a fixed monthly payment from the capacity valuation credit margin received from its Asset Manager. (*Id.* at 7, LL 6-9.) “Therefore, there is nothing for the Company’s internal audit department to audit and no audit has been performed for this determination period.” (*Id.* at 7, LL 9-11.)

12. According to Ms. Clausius, “[the Company] agreed to specify the amount of capacity charges for delivery points in eastern Sussex County, Delaware that the Company is seeking to recover in its GSR rates.” (*Id.* at 9, LL 9-11; see also Commission Order No. 7228 (July 24, 2007), HE’s Report §IX, p.5.) Effective November 1, 2009, the Company will have 4,204 Dt of firm transportation entitlements at points located in eastern Sussex County on the Eastern Shore Pipeline at a total yearly cost of \$874,461. (*Id.* at 9, LL 16-21.)

**13. The Eastern Shore Natural Gas (“ESNG”) E3 Project.** In this GSR proceeding, the Company also seeks to recover \$306,299, the first portion of the Pre-Certification costs incurred by the Company for the EasternShore Energylink Expansion Project (“the E3 Project”), a natural gas project terminated by, ESNG, a company affiliated with Chesapeake. (Exh. 4 at 13, LL 18-21.) Of the \$306,299 sought by the Company, \$112,847 is for costs incurred during the twelve-month period ending October 31, 2009. (*Id.* at 13, LL 21-23.) The remaining \$193,452 is the amount the Company estimates will be incurred during this GSR period. (Exh. 4 at 13, LL 23; p. 14, LL 1-2.) The pre-certification costs between all project participants total approximately \$3.1 million, of which the Company’s Delaware Division’s share is

\$1,149,999. (See Clausius Rebuttal, Exh. 5, Attachment "A" thereto.) Ms. Clausius attached to her prefiled testimony the documents submitted to the Federal Energy Regulatory Commission ("FERC") that demonstrate that FERC approved this allocation. (See FERC's August 1, 2006 Order, §5.) Pre-certification costs are defined as "engineering, communication, governmental relations, economic studies and environmental, regulatory and legal service costs." (*Id.*)

14. The E3 project would have provided the Company with another natural gas pipeline source to serve residents of the Delmarva Peninsula. (Clausius, Exh. 4 at 14, 13-17; see also FERC's August 1, 2006 Order, §§2, 3.) ESNG intended to construct a sixty three (63) mile gas supply pipeline from the Cove Point LNG facility in Calvert County, Maryland to the lower Delmarva Peninsula. (Clausius, Exh. 4, at 14, LL 13-17.) The pipeline would be placed under the Chesapeake Bay. (*Id.* at 14, L 15-17.) Thus, the E3 project would reduce the Company's dependence on the Transco and Columbia Gas pipelines, while aiding the Company in satisfying its "design day requirements." (*Id.* at 16, LL 4-16.) However, ESNG terminated the E3 project in May 2009 due to projected capital increases and insufficient customer commitments, concluding that the project was not viable during the current economic downturn. (Ex. 4 at 15, LL 13-21; see also LeLash, Exh. 10 at 12, LL 7-21; p. 13, LL 1-5.)

**15. Testimony of Michael D. Cassel.** Company Regulatory Analyst Michael D. Cassel testified that the projected total firm gas costs recoverable through the gas cost recovery mechanism are \$41,810,055, consisting of \$15,820,014 of fixed gas costs and

\$25,990,040 of variable gas costs. (Exh. 6 at 5, LL 15-18; see Exh. 3 at Schedule A.1.) According to Mr. Cassel, the proposed decrease in GSR rates reflects an anticipated decrease of \$13,328,271 in variable gas costs since the Company's GSR last changed on February 1, 2009. (Exh. 6 at 6, LL 6-7; see Exh. 3 at Schedule E.) These variable cost decreases, however, are somewhat offset by an anticipated \$1,943,717 increase in fixed costs. (Exh. 6, at 6, LL 12-14.) The increase in fixed costs is primarily attributable to increased daily firm transportation entitlements on the Transco, Columbia and ESNG pipelines. (Exh. 6 at 6 at LL 14-18.)

16. Mr. Cassel testified there are three (3) steps involved to calculate the proposed GSR charges for the three GSR categories,: 1) develop the sales and associated gas supply requirements forecast; 2) forecast supplier rates and calculate annual purchased gas costs associated with serving customers; and 3) a calculation of the three separate GSR charges: a fixed rate, a commodity rate and a system average rate.<sup>3</sup> (rd at 7.)

17. **Testimony of Marie E. Kozel.** Company Gas Supply Analyst Marie E. Kozel testified that, since the Company's most recent GSR proceeding, the Company had obtained the new capacity entitlements on the following pipelines: a) 67 Dts of capacity on Transco effective 1/1/09; b) 7,500 Dts on Columbia effective 2/1/09; c) 4,000 Dts on ESNG effective 11/1/09; and d) an anticipated 7,500 Dts on Columbia the latter of 11/15/09 or when the facilities are placed in service.

<sup>3</sup> The remainder of this third-step and an extensive description of how GSR rates are calculated can be found on pages 7 through 10 of Mr. Cassel's pre-filed testimony. (Cassel, Exh. 6.)

(Exh. 8 at 5, LL 1-9.) These capacity entitlements are all used in calculating fixed gas costs in the GSR. (*Id.* at 5, LL 9-12.) Residential and commercial customer growth and the Company's "unique location" on the Delmarva Peninsula has required the Company to actively address its available upstream capacity. (*Id.* at 5.)

18. Finally, Ms. Kozel testified that, effective March, 2009, the Company executed a three (3) year contract with an Asset Manager. (Ex. 8 at 9.) The Company's Asset Manager provides capacity management, supply and dispatch scheduling on upstream pipelines, firm and interruptible gas supply, balancing of supply resources, and performs a monthly accounting of these matters. (*Id.*)

**C. STAFF'S TESTIMONY**

**19. Testimony of Funmi I. Jegede.** Public Utilities Analyst Funmi I. Jegede submitted pre-filed direct testimony dated January 25, 2010. (Exh. 11.) Ms. Jegede reviewed the proposed GSR factors and firm balancing rates set forth in the Company's Application, verified that they comply with Chesapeake's Tariff No. 42, and recommended approval of all proposed rate changes. (*Id.* at 5; Tr. 40.)

20. In her pre-filed testimony, however, Ms. Jegede also testified as to several compliance issues relating to the Company. (Jegede, Exh. 11 at 19-21.) According to Ms. Jegede, the Company failed to timely inform the Commission Staff that the Company intended to sign an Asset Management Agreement with its Asset Manager. (*Id.* at 19.) According to Ms. Jegede, this notice was not provided despite "Staff's concerns and recommendations in several (at least four) prior

GSR filings." (*Id.*; see also Ex.11 at 14 for a list of Chesapeake's prior dockets.) Ms. Jegede also expressed concerns about the financial consequences for ratepayers caused by the cancelled E3 project, which were also raised by Staff's Consultant, Richard W. LeLash, whose testimony is described next. (*Id.* at 19-21.)

**21. Testimony of Richard W. LeLash.** Richard W. LeLash, an independent financial consultant, also filed direct testimony on behalf of Staff. (See LeLash, Exh. 10-Public Version.) Regarding ESNG's "withdrawal" of its E3 Project (Exh. 10 at 8, L17), Mr. LeLash recommended that the Commission require Chesapeake to "challenge the omission of tax benefits and the interest rate being applied to the pre-certification costs and their recovery." (*Id.* at 9, LL 16-17.)

22. Mr. LeLash noted that under the Federal Energy Regulatory Commission's ("FERC") Order approving the parties' Settlement Agreement and the applicable FERC Tariff, the Company is liable for 37.5% of the first \$3.0 million of expenses and for 25% of expenses in excess of \$3.0 million with a ceiling of \$2.0 million in total. Exh. 10 at 14. Mr. LeLash went on to explain:

[T]he total level of expenses was \$3,099,995 with the Company being allocated \$1,149,999. With this expense level it appears that ESNG will be responsible for about 50% of the cost in excess of \$3,000,000, or an amount of \$50,000. Because of the recovery of the expense over twenty years and the authorization of carrying costs at an after-tax rate of 10.70%, the Company will pay an additional \$2,661,432 in interest. Thus, the Company, and ultimately its customers, will pay \$3,811,431 in additional rates. This total amount equals about 123% of the total claimed pre-certification cost incurred by ESNG. Therefore, Delaware's gas ratepayers (those of the Company and Delmarva) will ultimately pay \$7,622,862 while ESNG will pay only \$50,000.



Exh. 10 at 14, LL 11-21. Mr. LeLash stated that it appeared to him "unreasonable" for ESNG, who planned, contracted and would obtain the greatest benefit from the project had it been completed, to be responsible for less than 1% of the pre-certification costs. Exh. 10 at 15, LL 4-6.

23. Mr. LeLash noted that as a result of an audit conducted by Staff and Delmarva the monthly charge was decreased by approximately \$240 [per month] or \$2, 880 per year. Exh. 10 at 16, LL 4-6. Mr. LeLash further observed that the Company did not assess the tax impact of 20 years of amortization on the project costs, which could have impacted the cost recovery and carrying charges. Exh. 10 at 16, LL 2-10.

24. With respect to developing Chesapeake's design day sendout requirement, which is the basis for determining its system gas requirements, Mr. LeLash stated that the Company was due to file its next Demand and Supply Plan in September 2010. Exh. 10 at 18, LL 19-20.

According to Mr. LeLash, Chesapeake's 2008 Gas Supply Plan utilized an overstated requirements forecast by 3,600 Mcf as a margin of error. Exh. 10 at 18, LL 19-20. Mr. LeLash opined that the Company's practice of taking the calculated regression demand level and adding a margin to it does not represent established industry practice. *Id.* at 18, LL 5-7 and at 19, LL 19-20.

25. Regarding the Company's current volume-based hedging program, Mr. LeLash recommended that when determining volume (which determines how much hedging may be done) the Company should "[ t] ake

the forecasted monthly gas sales (or requirements) and add[sic] forecasted storage injections and subtract[sic] forecasted storage withdrawals. Such a determination provides the Company's purchase volumes on which hedging targets should be measured." (*Id.* at 25, LL 6-10.) In addition, Mr. LeLash also recommended certain revisions to hedging levels in the Company's hedging program. (*Id.* at 25-29.)

26. Finally, Mr. LeLash recommended that, as opposed to basing hedge targets upon gas volumes as the Company (and others) do, the Company's hedge volumes should be based upon a "dollar cost averaging" methodology, which would be responsive to changing market prices for natural gas during hedge periods. (*Id.* at 10, 26-27.) This framework determines hedges based on the monthly amount of gas purchases, as opposed to defining hedge targets in terms of gas volumes. (*Id.* at 26, LL 18-21; p.27, LL 1-5.) According to Mr. LeLash, "[t]his hedging would utilize the same annual gas volumes and, based upon the Company forecast, would determine a dollar amount to be spent on hedge positions. Effectively such a dollar cost averaging methodology would automatically increase the volumes hedged when prices fall below the forecast and decrease the volumes when prices were above the forecast." (*Id.* at 26, L 21 - p.27 LL 1-5.) According to Mr. LeLash, the effect of this methodology would be to automatically increase the volumes hedged when prices fell below the forecast and decrease the volumes when prices went above the forecast. (*Id.* at 27, LL 2-5.)

**D. DIVISION OF PUBLIC ADVOCATE'S TESTIMONY**

27. **Testimony of Andrea C. Crane.** Andrea C. Crane, President of The Columbia Group, submitted pre-filed direct testimony on behalf of the DPA. (Exh. 9.) Ms. Crane also recommended that the Commission approve the GSR rates reflected in the Company's Application, subject to true-up in the Company's next GSR proceeding. (*Id.* at 12, LL 20-21 - p.13, L 1.) However, Ms. Crane testified that the Company's GSR rates continue to be higher than the rates charged by other utilities in Delaware and in the surrounding area.<sup>4</sup> (*Id.* at 11, LL 14-15.) To demonstrate her point, Ms. Crane included a chart comparing the rates of various utilities in the region with Chesapeake's proposed rate. (*Id.* at 11, LL 1-10.)<sup>5</sup>

<sup>4</sup> Chesapeake maintains that its rates are higher than the rates charged by Delmarva Power & Light ("DP&L") because: 1) the average annual consumption of a typical DP&L residential heating customer is higher than a typical Chesapeake residential heating customer; 2) due to its more northerly location on the Delmarva Peninsula, DP&L has direct interconnects with various interstate pipelines not available to Chesapeake; and 3) DP&L's natural gas does not have to travel through an additional pipeline, ESNG, as is the case with Chesapeake. (Cassel Rebuttal, Exh. 7, p.11, LL 4-22.)

<sup>5</sup> Ms. Crane provided the following chart to demonstrate where Chesapeake's rates fall in comparison to utilities in neighboring states.

Company	Rate / Mcf (Residential)	Date
National Fuel Gas	\$5.32	8/1/2009
Baltimore Gas and Electric	\$5.71	10/1/2009
UGI-Central Penn	\$6.64	9/1/2009
PECO	\$6.76	12/1/2009
Washington Gas - Virginia	\$6.93	10/1/2009
Washington Gas - MD	\$7.43	10/1/2009
Washington Gas - DC	\$7.49	10/1/2009
Elizabethtown Gas	\$7.76	10/1/2009

28. Ms. Crane objected to the amount to be borne by Chesapeake's ratepayers for termination of the E-3 project. (*Id.* at 28, LL 14-21; p. 29, LL 1-11.) Ms. Crane opined that the formula for determining the precertification costs allocated to each party was specified in a settlement agreement entered into by the parties for the E-3 Project during a FERC proceeding. (*Id.* at 28, LL 14-21.) Costs of up to \$3 million are allocated based upon each party's projected Maximum Daily Transportation Quantity. Costs in excess of \$3 million are allocated equally among the parties. (*Id.*) Ms. Crane noted that the FERC tariff provides that each party's share will be amortized "over (20) years and billed monthly at an after-tax rate of return of 10.70%. (*Id.*) According to Ms. Crane, this after-tax rate is the equivalent to a pre-tax rate of return of "approximately 15.6%!" (*Id.* at 28, LL 20-21; p. 29, LL 1.) Consequently, Ms. Crane remarked that over a 20-year period, Chesapeake's regulated ratepayers will pay more than 100% of the total project precertification costs of \$3.1 million. (*Id.* at 29, LL 2-4.) Ms. Crane calculated that at a rate of \$190,571 per year, Chesapeake's ratepayers will pay \$3.8 million to its affiliate, ESNG, over the 20-year repayment period. (*Id.* at 29, LL 4-5.)

Columbia Gas	\$8.06	9/1/2009
South Jersey Gas	\$8.11	10/1/2009
Chesapeake	\$9.56	11/1/2009
UGI	\$9.88	3/1/2009
UGI-Penn Natural Gas	\$10.40	9/1/2009

Exh. 9 at 11, LL 2-10

29. Further, Ms. Crane observed that Chesapeake's last base rate case was completed on an after-tax return of 8.91%, which is considerably less than the 10.7% on which the E-3 costs are based. (*Id.* at 29, LL 10-12.) Ms. Crane opined that "ESNG is earning a windfall return at the expense of Delaware ratepayers." (*Id.* at 29, LL 11-12.) In addition, Ms. Crane surmised that ESNG's share of the E-3 precertification costs is "no more than \$33,000." (*Id.* at 29, LL 16.) Ms. Crane remarked that since the project was never built these pre-certification costs did not directly benefit Chesapeake's ratepayers. (*Id.* at 30, LL 5-8.)

30. Accordingly, Ms. Crane recommended that the Commission permit the Company to recover its pre-certification costs, but that it should limit the "carrying cost" to the after-tax return of 8.91%, the after-tax amount awarded to the Company in its most recent base-rate case. (*Id.* at 30, LL 17-21; p. 31, LL 1-4.) Ms. Crane noted that limiting the carrying costs in this manner would result in annual payments of \$164,198, a reduction of \$26,373 from the amount of \$190,572 requested by Chesapeake. (*Id.* at 30, LL 19-21.) Further, Ms. Crane suggested that this approach provides a balance between denying recovery of the E-3 costs and allowing ESNG to recover excess costs from a project that gave no benefit to Delaware ratepayers. (*Id.* at 31, LL 1-4.) Regarding the related issue of any future ESNG capacity for eastern Sussex County, Ms. Crane argued the Company should be required to "adequately demonstrate the need for this additional capacity with realistic supporting documentation." (*Id.* at 39, LL 7-

8.)

31. Ms. Crane agreed that, by Commission Order, the Company's margins from interruptible sales totaling \$575,000 are imputed or credited against the base rates. (*Id.* at 31, L 6; p.32, LL 1-17; see Order No. 7434, HE's Report, §VI (iii), p.25.) Moreover, according to Order No. 7434, margins associated with ESNG are credited 100% to the Company's GSR. (*Id.* at 31, LL 13-14.) Ms. Crane recommended, however, that all margins above \$575,000 should hereinafter be shared 10% to shareholders and 90% to ratepayers. (Exh. 9 at 32, LL 8-9.) According to Ms. Crane, such a sharing arrangement would be consistent with the current "90% ratepayers/10% Company" sharing arrangement regarding capacity release revenues ordered in the Company's last GSR proceeding. (*Id.* at 31, LL 9-12.) Finally, Ms. Crane recommended certain revisions to hedging levels in the Company's hedging program. (*Id.* at 23, L 20; p. 26, L 19.)

#### **E. CHESAPEAKE'S REBUTTAL TESTIMONY**

32. Ms. Clausius and Mr. Cassel submitted pre-filed Rebuttal Testimony on behalf of Chesapeake. (Clausius Rebuttal, Exh. 5; Cassel Rebuttal, Exh. 7.) Ms. Clausius asserted that the Delaware Public Service Commission cannot adjust the amount of the pre-certification costs for the E-3 Project included in the Company's rates. *Id.* at 13, LL 21-23; p.14, L 1-5.) Further, Ms. Clausius testified that "the Company believes that the cost allocation of the pre-certification costs, as reflected in the approved FERC tariff, was fair. <sup>6</sup>*Id.* Moreover, the Company believes that under the filed-rate

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<sup>6</sup> Ms. Clausius further opined that the payment of any surcharges to ESNG was structured to allow Chesapeake to reimburse ESNG over a period of time rather than in

doctrine, the approved FERC tariff cannot be overridden by a State Commission." *Id.* at 14, LL 1-5.) Ms. Clausius stated that her understanding of the filed-rate doctrine was that "states are required to permit federally approved filed rates to flow through into retail rates." (*Id.* at 14, LL 9-11.)

33. Regarding the Company's Natural Gas Commodity Procurement Plan, Ms. Clausius included a page and one-half of statements made by witnesses for Staff and the DPA with which she represented that the Company agrees. (*Id.* at 18-2.) Ms. Clausius noted and agreed that, as Staff's Mr. LeLash had recommended, "the Company should not be given full discretion to vary from its hedging targets, [ and that] ... the Company can request modifications based on defined variables, such as price." (*Id.* at 19 (*quoting* LeLash, Exh. 10 at 10, LL 19-20; p.11, LL 1-2.)) Moreover, in her Rebuttal testimony, Ms. Clausius also agreed with Mr. LeLash's recommendation that the Company "alter its hedged quantities to equate to firm requirements less storage withdrawals, plus storage injections." (Clausius Rebuttal, Exh. 5, at 20, LL 6-9.)

34. Finally, Ms. Clausius and Mr. Cassel both disagreed with Mr. LeLash's assessment that the Company's current design day requirements are "excessive." (*Id.* at 22, LL 11-23; Cassel Rebuttal, Exh. 7 at 5 LL 7-23; p. 6, LL 1-3); see LeLash, Exh. 10 at 10, LL 1-2.) According to Ms. Clausius: 1) the Company has not entered into any

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a lump sum payment. Ms. Clausius asserted that this arrangement eliminated "rate shock on the customers." (Exh. 5 at 16, LL4-17.) According to Ms. Clausius, the cost allocation mechanism limited the ratepayer's exposure, since it provided a cap of \$2,000,000 for Chesapeake's Delaware and Maryland Division, for a project with an estimated cost of approximately \$93,000,000. *Id.* Ms. Clausius asserted that the Staff supported the E3 project from as early as 2007 in testimony submitted in PSC Docket No. 06-287F. (*Id.* at 18, LL 14-18.)



new capacity agreement since the current economic downturn began; 2) the Company has released capacity to other parties; and 3) the Company has extended the phase-in of a prior capacity commitment. (Clausius Rebuttal, Exh. 5, at 22, LL 16-22.) Mr. Cassel testified that predicting design day requirements is challenging since the Company must acquire capacity prior to adding new customers, and usually such capacity is on a "firm" basis. (Cassel Rebuttal, Exh. 7 at 7, LL 15-20.)

35. In his Rebuttal Testimony, Mr. Cassel also disputed Mr. LeLash's and Ms. Crane's position that the Company's prior forecasting of growth and natural gas use in eastern Sussex County was overly optimistic. (Cassel Rebuttal, Exh. 7 at 3, LL 12-23; p.5, LL 3.) Mr. Cassel testified that "[great care is taken to analyze trends, usage and a number of other factors to come up with a reasonable forecast." (*Id.* at 5, LL 1-3.) Mr. Cassel testified that the Company's forecasting was done prior to the unforeseen decline of the housing market and the overall economy beginning in 2006. (*Id.* at 4, LL 1-7; p. 4, LL 19-23; p.5, LL 1-3; p. 8, LL 9-18.) Further, Mr. Cassel asserted, contrary to the contentions of Staff Witness Jegede, that the Company met the settlement provisions of PSC Docket Nos. 05-315F and 06-287F regarding the Asset Management Agreement. (Exh. 7 at 15, LL 1-6.) In addition, Mr. Cassel contended that the Company complied with the Settlement Agreement in PSC Docket No. 07-246F. (*Id.* at 15, LL 8-15; p. 15, LL 1-2.)

#### **IV. DISCUSSION OF PROPOSED SETTLEMENT AGREEMENT**

36. At the hearing, the parties submitted a Proposed Settlement Agreement ("Proposed Settlement"), which, if adopted, would resolve all issues in the case. The Proposed Settlement is attached as Exhibit "A" hereto, and was marked as Exhibit 2 at the evidentiary hearing. As there were no issues in dispute, post-hearing briefs were deemed unnecessary.

37. Hedging. In its original Procurement Plan, the Company proposed, among other things, that it "be permitted the discretion to choose to make incremental purchases above the formula volumes described ... [therein] to a total of 100% of the eligible portfolio or 70% of the flowing gas requirements." (Exh. 10 at 26, LL 10-13.) Additionally, the Company requested that it be permitted to alter its hedged volume targets if natural gas prices varied from the average cost of gas in the Company's GSR filing by 25% to 50% either up or down. (*Id.* at 25, LL 17-21.) "Thus, if gas prices increased, the volumes hedged would decline, and if the prices decreased, the volumes hedged would be increased." (*Id.* at 25, LL 21; p. 26, LL 1.)

38. In Paragraph 8 of the Settlement Agreement below, the parties have agreed to certain hedging limits, which will be reviewed bi-annually by the Commission:

8. With respect to the Company's natural gas commodity procurement plan ("the Plan"), in this docket the Company proposed changes to the Plan which included thresholds at which hedged volumes would decrease if natural gas commodity prices increase by a certain amount and at which hedged volumes would increase if natural gas commodity priced decrease by a certain amount, along with the ability of the Company, at its discretion, to increase its purchases to

seventy percent (70%) of the flowing gas requirements for forward delivery months. The Settling Parties have agreed to the Company's proposed thresholds for increases or decreases in the hedged volumes depending upon changes in natural gas prices, including a true-up provision for any shortfall. The Company had agreed to continue to seek agreement among the Settling Parties for any increases in its purchases for forward delivery months because the Settling Parties have been responsive to the Company's requests in the past. The Company will further review the dollar cost averaging framework proposed by the Staff for possible implementation at the time of the next review of the Plan.

39. In Exhibit "A" of the Settlement Agreement, the parties agreed upon the following four (4) hedging restrictions based upon changes in natural gas prices, which will alter hedged quantities: 1) if prices for a given month rise above 125% of the weighted average cost of gas from the most recent GSR filing, purchases will decrease to 75% of the original projected amount; 2) if prices for a given month rise above 150% of the weighted average cost of gas from the most recent GSR filing, purchases will decrease to 50% of the original projected amount; 3) if prices for a given month fall below 25% of the weighted average cost of gas from the most recent GSR filing, purchases will increase to 125% of the original projected amount; and 4) if prices for a given month fall below 50% of the weighted average cost of gas from the most recent GSR filing, purchases will increase to 150% of the original projected amount.

40. Instead of permitting the Company to have broad discretion regarding hedging as originally requested by the Company, the parties have now agreed upon reasonable restrictions upon the

Company's Hedging Program. As the Company's Ms. Clausius agreed to in her Rebuttal testimony, and as Staff's Mr. LeLash had recommended, "the Company should not be given full discretion to vary from its hedging targets, [and that] ... the Company can request modifications based on [defined variables, such as price]...." (Clausius Rebuttal, Exh. 5, at 19 (quoting LeLash, Exh. 10, at 10-11.)) By agreeing to more restrictive hedging requirements in the Settlement Agreement, the parties have balanced the Company's desire to maximize the results of its hedging program with the Staff's and DPA's desire to protect ratepayers from extreme market volatility.

41. Moreover, in the Settlement Agreement, the parties have afforded themselves future flexibility regarding the Company's Hedging Program by: 1) requiring that the Company seek the approval of the Staff and DPA for "for any increases in its purchases for forward delivery months;" 2) requiring that Staff and the DPA be notified "[ i] f purchase quantities are modified due to the above parameters;" and 3) allowing the Company to reserve the right to request to modify this hedging program after the initial two (2) year review period. (See Settlement Agreement, Para. 8 & Exh. "A" thereto.).

42. Recovery of Pre-Certification Costs Re E3 Project.  
Regarding the terminated (E3) Project and the recovery of pre-certification costs, the parties agreed as follows in Section 6 of the Settlement Agreement:

6. With respect to the payment and recovery of costs associated with the [termination of the] Eastern Shore Natural Gas Company (ESNG) E3 Project, the Company shall be allowed to recover the portion of the E3 Project costs

included in the GSR rates filed in this docket. However, prior to the next GSR filing, the Company will seek an arrangement with ESNG to reduce the cost recovery period, along with associated interest, from the current twenty (20) years to no more than five (5) years.

Consequently, before the next GSR docket, the Company is required to approach ESNG to discuss reducing the twenty (20) year pre-certification cost recovery period to five (5) years and the associated interest.

43. The parties have agreed that Chesapeake may now recover in the current GSR rates the first \$306,299 installment of the approximately \$1.2 million of pre-certification costs, as authorized by FERC. Under the FERC approved the Settlement Agreement and associated tariff, Chesapeake is required to pay \$190,571 annually to ESNG over a twenty (20) year period, at an after-tax rate of return of 10.70%. (*Id.*; Exh. 9 at 29, LL 2-11.) At this rate, Chesapeake's ratepayers will be required to pay approximately \$3.8 million to Chesapeake's subsidiary ESNG. In its most recent base rate case, Chesapeake was awarded an after-tax return of only 8.91%, significantly less than the 10.7% rate FERC approved. (*Id.*) In agreeing to Paragraph 6 of the Settlement Agreement, Staff and the DPA sought to lessen the financial impact of FERC's Order upon the Company and its ratepayers. (*Id.* at 30, LL 11 and p. 31 LL 4.) Specifically, if ESNG, with the approval of FERC, if necessary, agrees to amend its tariff allowing interest to be paid over five (5) years instead of twenty (20) years, the ratepayers will reap substantial savings in the interest payment. (*Id.*)

44. Future ESNG Capacity Commitments. Regarding future ESNG capacity commitments, the parties agreed as follows in Section 7 of the Settlement Agreement:

7. The Company had previously agreed that prior to making any new commitments for incremental ESNG capacity, the Company would provide the Settling Parties (on a confidential basis and for informational purposes only) with an evaluation justifying the Company's need for such capacity.<sup>7</sup> The Company agrees that such evaluation shall include, but not be limited to, an analysis of the options considered by the Company, any applicable cost/benefit analysis, and support for any updated design day projections.<sup>8</sup> The Settling Parties shall be afforded an opportunity to comment on the Company's evaluation, provided that all such comments shall be submitted to the Company within fifteen (15) business days after receipt of the evaluation provided by the Company. This fifteen (15) business day period supersedes the ten (10) calendar day comment period as contained in the settlement agreement in PSC Docket No. 08-269F.

45. The Company had agreed in a prior Docket that, prior to purchasing additional ESNG capacity, it would provide Staff and DPA with its evaluation as to why the Company had concluded that it needed additional ESNG capacity. (Tr.-25.) In Paragraph 7 of the Settlement Agreement, the parties specified the procedures regarding allowing

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<sup>7</sup> In Paragraph 11 of the Settlement Agreement, the parties agreed as follows:

As part of the settlement agreement in PSC Docket No. 08-269F, the Company provided (on a confidential basis) information on its expansion into eastern Sussex County as part of the GSR filing as opposed to waiting for interrogatories [from the Commission]. The Company agrees to continue to provide information on its expansion in advance of interrogatories.

<sup>8</sup> In Paragraph 13 of the Settlement Agreement, the parties agreed as follows:

Chesapeake utilizes ten-year average degree days for normalized weather in GSR filings. As agreed to in the Settlement Agreement in PSC Docket No. 08-269F, if Chesapeake files a GSR application using average degree days that differ from the thirty-year average, then Chesapeake will also calculate the impact on its proposed GSR rates had a thirty-year average been used, and will provide such information as part of the discovery process, when and if requested.

Staff and the DPA fifteen (15) business days prior notice instead of ten (10) calendar days, to respond to the Company's additional capacity evaluation. (*Id.*)

46. Interruptible Gas Service Margins. Interruptible gas service is gas service, which a gas company can interrupt due to, for example, lack of adequate supply during a peak period. (See Company's Fifth Revised Tariff Sheet No. 40 effective November 1, 2009.) Regarding the Company's interruptible gas transportation margins as to existing customers, DPA Witness Andrea Crane recommended that 90% of the margins exceeding \$575,000 received by the Company should be shared with the ratepayers with 10% being retained by the Company, beginning with the start of the current GSR period, November 2009. (Exh. 9 at 32, LL 8-13.) According to Ms. Crane, her proposal was consistent with the sharing mechanism recently agreed to by the parties regarding credits received from the Asset Manager. (*Id.*)

47. In Paragraph 9 of the Settlement Agreement, the parties reached a compromise concerning the margins for existing customers regarding Interruptible Gas Transportation. The DPA's Michael Sheehy emphasized that, although the Company will receive 100% of the margins up to \$675,000, according to the Settlement Agreement, the ratepayers will receive 90% of the margins in excess of \$675,000. Paragraph 9 provides, in pertinent part, as follows:

9. ....Effective November 1, 2010, the Settling Parties agree to a margin sharing mechanism whereby Chesapeake retains 100% of the interruptible transportation margins up to \$575,000, (the amount included in Chesapeake's currently authorized firm base rates). Chesapeake will also retain 100% of the next \$100,000 of interruptible

transportation margins. Thereafter, Chesapeake will credit to the GSR 90% of interruptible transportation margins over \$675,000, with the Company retaining 10% of margins over \$675,000....<sup>9</sup>

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

## **V. RECOMMENDATIONS**

49. In summary, and for the reasons discussed above, I propose and recommend to the Commission the following:

**50. Gas Service Rate.** Based on the Company's supporting testimony and documentation, and without any objection from any other party, I recommend approval of the proposed GSR rates in the Company's Application, which took effect on a temporary basis, subject to refund, on November 1, 2009. I find the proposed GSR rates are just and reasonable and in the public interest. Accordingly, I recommend that the Commission order that the changes to the GSR rates approved by the Commission which provisionally went into effect on November 1,

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<sup>9</sup> Paragraph 9 of the Settlement Agreement further provided that:

For any new interruptible transportation customer added by the Company, margins from interruptible transportation sales to said customer shall be excluded from the above calculation (and the Company shall be permitted to retain 100% of said margins) until such time as the Company recovers the capital costs incurred to provide service to such customer. At the time that a new interruptible transportation customer is added, Chesapeake will take steps to ensure that the firm ratepayers are not adversely impacted by the addition of an interruptible transportation customer. Within ten (10) business days after a new interruptible transportation customer has been added, the Company will provide the Staff with a written report that will show, on a confidential basis, the name of the customer, the projected capital costs to serve the customer, and the projected recovery period. In its interruptible sales report filed with each GSR filing, Chesapeake will identify any new interruptible customer and provide information and updates as to when capital costs for new interruptible customers are expected to be recovered or have been recovered.



2009, be approved for the period beginning November 1, 2009, until further order of the Commission.

51. Accordingly, I recommend that the Commission approve as just and reasonable and in the public interest the Company's proposed revised GSR charges as proposed in the Company's Application, which are as follows:

<b>Service Classification</b>	<b>Effective 02/01/09 (approved)</b>	<b>Effective 11/01/09 (proposed)</b>
RS-1, RS-2, GS, MVS, LVS	\$1.243	\$0.956
GLR, GLO	\$1.013	\$0.645
HLFS	\$1.172	\$0.797
Firm Balancing Rate (LVS)	\$0.060	\$0.056
Firm Balancing Rate (HLFS)	\$0.019	\$0.007
Interruptible Balancing Rate (ITS)	\$0.004	\$0.002

**52. Proposed Settlement Agreement:** At the evidentiary hearing, each party presented a witness describing why adopting the proposed Settlement Agreement is in the public interest. Staff's Ms. Jegede and DPA's Michael Sheehy testified that settlement of this matter avoids the cost of protracted litigation, and satisfies Staff's and the DPA's concerns (for the time being) regarding the Company's Natural Gas Commodity Procurement Plan, recovery of the E3 Project's pre-certification costs, future ESNG Capacity Commitments, and Interruptible Gas Transportation Sales Margins. (See Jegede (Staff), Tr. 40); Michael D. Sheehy (DPA), Tr.-34-35.) The Company's Ms. Clausius also testified that adopting the Settlement Agreement is in the public interest. (Tr. 31.) For the reasons described herein, I

agree that adopting the proposed Settlement Agreement would be in the public interest. Therefore, pursuant to 26 *Del. C.* §512, I recommend that the Commission approve the Settlement Agreement in its entirety.

53. Therefore, for these reasons, I find that the Commission approves just and reasonable and in the public interest the proposed Settlement Agreement which is attached as Exhibit "A" hereto. A proposed Order, which will implement the foregoing recommendations, is attached hereto as Exhibit "B."

Respectfully submitted,

\_\_\_\_\_  
Ruth Ann Price  
Senior Hearing Examiner

Dated: August 27, 2010

**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 SERVICE ) PSC DKT. NO. 09-398F  
RATES TO BE EFFECTIVE NOVEMBER 1, 2009  
(FILED SEPTEMBER 4, 2009)

**PROPOSED SETTLEMENT**

On this 8th day of April, 2010, 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 September 4, 2009, Chesapeake filed with the Delaware Public Service Commission (the "Commission") an application (the "Application") for a change in its Gas Sales Service Rates to be effective for service rendered on and after November 1, 2009. By Commission Order dated October 6, 2009, the Commission allowed Chesapeake's proposed rates to go into effect on November 1, 2009 on a temporary basis pending full evidentiary hearings and a final decision of the Commission.

2. On January 25, 2010, the Delaware Public Service Commission Staff ("Staff") and the Delaware Public Advocate ("DPA") filed their respective testimonies, asserting various issues with respect to Chesapeake's application.

3. Subsequently, on March 8, 2010, Chesapeake filed its rebuttal testimony pursuant to which Chesapeake took issue with various recommendations of the Staff and DPA regarding several cost recovery and reporting issues.

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

5. The Settling Parties have conferred in an effort to resolve all cost recovery and reporting issues raised in this proceeding. The Settling Parties acknowledge that the parties differ as to the proper resolution of many 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.<sup>a</sup> The Settling Parties agree that subject to the approval of the Hearing Examiner, the terms and conditions of this Proposed Settlement will be presented to the Commission for the Commission's approval forthwith.

## **II. SETTLEMENT PROVISIONS**

6. With respect to the payment and recovery of costs associated with the Eastern Shore Natural Gas Company ("ESNG") E3 Project, the Company shall be allowed to recover the portion of the E3 Project costs included in the GSR rates filed in this docket. However, prior to the next GSR filing, the Company will seek an arrangement with ESNG to reduce the cost recovery period, along with associated interest, from the current twenty (20) years to no more than five (5) years.

7. The Company had previously agreed that prior to making any new commitments for incremental ESNG capacity; the Company would provide the Settling Parties (on a confidential basis and for informational purposes only) with an evaluation justifying the Company's need for such capacity. The Company agrees that such evaluation shall include, but not be limited to an analysis of the options considered by the Company, any applicable cost benefit analysis, and support for any updated design day projections. The Settling Parties shall be afforded an opportunity to comment on the Company's evaluation, provided that all such comments shall be submitted to the Company within fifteen (15) business days after receipt of the evaluation provided by the Company. This fifteen (15) business day period supersedes the ten (10) calendar day comment period as contained in the settlement agreement in PSC Docket No. 08-269F.

8. With respect to the Company's natural gas commodity procurement plan ("Plan"), in this docket the Company proposed changes to the Plan which included thresholds at which hedged volumes would decrease if natural gas commodity prices increase by a certain amount and at which hedged volumes would increase if natural gas commodity prices decrease by a certain amount, along with the ability of the Company, at its discretion, to increase its purchases to seventy percent (70%) of the flowing gas requirements for forward delivery months. The Settling Parties have agreed to the Company's proposed thresholds for increases or decreases in the hedged volumes depending upon changes in natural gas prices, including a true-up provision for any shortfall. The Company has agreed to continue to seek agreement among the Settling Parties for any increases in its purchases for forward delivery months because the Settling Parties have been responsive to the Company's requests in the past, The Company will

further review the dollar cost averaging framework proposed by the Staff for possible implementation at the time of the next review of the Plan. The specific changes to the Plan are outlined on **Exhibit A** and will be effective upon final approval of this Settlement by the Commission.

9 As part of the settlement agreement in PSC Docket No. 08-269F, the Company agreed to provide (on a confidential basis) information on the total sales volumes, costs, and margins by month for Interruptible Gas Transportation sales as part of this GSR filing. The Company agrees to continue to provide this information in future GSR filings. Effective November 1, 2010, the Settling Parties agree to a margin sharing mechanism whereby Chesapeake retains 100% of the interruptible transportation margins up to \$575,000, (the amount included in Chesapeake's currently authorized firm base rates). Chesapeake will also retain 100% of the next \$100,000 of interruptible transportation margins. Thereafter, Chesapeake will credit to the GSR 90% of interruptible transportation margins over \$675,000, with the Company retaining 10% of margins over \$675,000. For any new interruptible transportation customer added by the Company, margins from interruptible transportation sales to said customer shall be excluded from the above calculation (and the Company shall be permitted to retain 100% of said margins) until such time as the Company recovers the capital costs incurred to provide service to such customer. At the time that a new interruptible transportation customer is added, Chesapeake will take steps to ensure that the firm ratepayers are not adversely impacted by the addition of an interruptible transportation customer. Within ten (10) business days after a new interruptible transportation customer has been added, the Company will provide the Staff with a written report that will show, on a confidential

basis, the name of the customer, the projected capital costs to serve the customer, and the **projected recovery period. In its interruptible sales report filed with each GSR filing,** Chesapeake will identify any new interruptible customer and provide information and updates as to when capital costs for new interruptible customers are expected to be recovered or have been recovered.

10. The Company will continue to include, in its future GSR applications, an update on **steps taken to mitigate the effect of rising gas costs.**

**H.** As part of the settlement agreement in PSC Docket No. **08-269F, the Company provided** (on a confidential basis) information on its expansion into eastern Sussex County as part of the GSR filing as opposed to waiting for interrogatories. The Company agrees to continue to provide information on its expansion in advance of interrogatories.

12. The Company currently provides details to the Staff, on a confidential basis, on its transactions with affiliates. The Company will hereafter submit this information **to the DPA as well.**

13. Chesapeake utilizes ten-year average degree days for normalized weather in GSR filings. As agreed to in the settlement agreement in PSC Docket No. 08-269F, if Chesapeake files a GSR application using average degree days that differ from the thirty-year average, then Chesapeake will also calculate the impact on its proposed GSR rates had a thirty-year average been used, and will provide such information as part of the discovery process, when and if requested.

14. The Company will continue to notify the settling parties of any supplier refunds that may impact the GSR charges.

15. The Settling Parties agree that the Company's proposed rates as set forth in the Company's Application are just and reasonable rates.

### III. STANDARD PROVISIONS AND RESERVATIONS

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

17. 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.

18. 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.

19. 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.

20. 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.

21. 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.

22. 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.

23. 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 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.

24. 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.

25. 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**

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**

Dated: 1/10

By: Jeffrey R. Tietbohl  
Assistant Vice President

**Delaware Public Service Commission Staff**

Dated: \_\_\_\_\_

By: \_\_\_\_\_

**The Division of the Public Advocate**

Dated: \_\_\_\_\_ By: \_\_\_\_\_

IV. CONCLUSION

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.

Dated: \_\_\_\_\_

**Chesapeake Utilities Corporation**

By: \_\_\_\_\_

Dated: 14<sup>th</sup> \_\_\_\_\_ )1<sup>st</sup>

**Delaware Public Service Commission Staff**

By: \_\_\_\_\_

Dated: \_\_\_\_\_

**The Division of the Public Advocate**

\_\_\_\_\_

**IV. CONCLUSION**

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**

Dated: \_\_\_\_\_ By: \_\_\_\_\_

Delaware Public Service Commission Staff

Dated: \_\_\_\_\_ By: \_\_\_\_\_

**Revision of the Public Advocate**

Dated: 4/8/2010

**Y**

TD (.....4.0.....)  
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Chesapeake Utilities Corporation  
Delaware Division  
Natural Gas Commodity Procurement Plan Details  
April 8, 2010

- \* Chesapeake Utilities Corporation ("Company") proposes to add the following detail to its Natural Gas Commodity Procurement Plan:
  
- \* Maintain the current eligible portfolio as 70% of the Company's total gas supply requirements to meet its forecasted weather normalized firm sales, reduced by the storage gas volumes forecasted to be used to meet such firm requirements, plus projected storage injections.
  
- 41 Hedge the eligible portfolio as a combination of fixed and market hedges.
  - o Fixed hedges — limited to physical hedging
    - Fixed hedges will equate to approximately 71 % of the eligible portfolio.
    - Fixed hedges will occur on the second Wednesday of the month at the market close.
    - Approximately 6% of the eligible portfolio will be hedged monthly.
    - The eligible portfolio to be delivered in any given month will be hedged during the preceding 12 month period, i.e. supply to be delivered in October 2007 would be hedged during the October 2006 through the September 2007 time period.
    - The current eligible portfolio will be used to initiate hedging for the upcoming GSR period.
    - Volumes associated with a new GSR period will be trued up during the months before the contract closes, i.e. February 2008 volume adjustment will occur evenly between September 2007 and January 2008.
    - Should prices for a given delivery month rise above 125% of the weighted average cost of gas from the most recent GSR filing, purchases will decrease to 75% of the original projected amount.
    - Should prices for a given delivery month rise above 150% of the weighted average cost of gas from the most recent GSR filing, purchases will decrease to 50% of the original projected amount.
    - Should prices for a given delivery month fall below 25% of the weighted average cost of gas from the most recent GSR filing, purchases will increase to 125% of the original projected amount.
    - Should prices for a given delivery month fall below 50% of the weighted average cost of gas from the most recent GSR filing, purchases will increase to 150% of the original projected amount.

- **At no time would the modifications above result in the purchase of more than the current eligible portfolio.**
  - **If purchase quantities are modified due to the above parameters, the Company will notify the Commission Staff and DPA of such change within five business days.**
  - **If purchases are reduced due to an increase in prices, the shortfall will be trued up in a later month if such gas can be acquired without increasing the average cost of gas contained in the Company's GSR filing for a future delivery month.**
- Market hedges — limited to physical hedging
- **Market hedges will equate to approximately 29% of the eligible portfolio as well as the 30% of forecasted requirements not included in the eligible portfolio**
  - **Market hedges will consist of first of the month indices and daily spot prices**

#### **Implementation**

- **The Company proposes to implement the agreed to amendments as soon as feasibly possible upon the approval of the Commission. An example schedule indicating the deviations from the proposed detail is attached. The Company also would expect any futures contract to be priced at the market settle where time limitations do not allow for fixed price hedging to occur.**

#### **Review Period**

- **The Company proposes to implement these amendments to the Company commodity procurement plan for a period of two (2) years followed by a review of the program. The Company reserves the right to propose modifications to this plan following the two (2) year period.**