

**BEFORE THE PUBLIC SERVICE COMMISSION  
OF THE STATE OF DELAWARE**

Delaware Association of Alternative	)	
Energy Providers,	)	
	)	
Complainant,	)	<b>PSC Docket No. 20-0357</b>
	)	
v.	)	
	)	
Chesapeake Utilities Corporation, a	)	
Delaware Corporation and Regulated	)	
Delaware Public Utility,	)	
Division of the Public Advocate, and the	)	
Delaware Public Service Commission	)	
Staff,	)	
	)	
Respondents.	)	

**Declaration Of Brian Reynolds**

State of Delaware	)
	)
County of <u>New Castle</u>	)

1. I am the Treasurer of the Delaware Association of Alternative Energy Providers (“DAAEP”) and I am submitting this affidavit on behalf of the DAAEP and its members.

2. The DAAEP brought this Complaint docket, in part, to protect its economic interests and the economic interests of its members. The members of the DAAEP consist of Delaware businesses, owned by Delaware residents, that employ Delaware residents to serve Delaware businesses and residents with

propane. Our members serve communities in Delaware with propane, including housing communities in New Castle, Kent, and Sussex counties.

3. According to the Application of Chesapeake Utilities Corporation that initiated PSC Docket No. 19-0529, the Application was intended, in part, to pave the way for Chesapeake to take business and customers away from members of the DAAEP. Among other things, Chesapeake's Application was intended to have Chesapeake convert community propane systems in Delaware that are owned by companies other than just its Sharp Energy, Inc. affiliate, and replace those community propane systems with Chesapeake's natural gas service.

4. The following examples establish that Chesapeake's Application was intended to cause economic injury to the DAAEP and its members by taking away their customers and converting those customers to Chesapeake natural gas customers:

a) In paragraphs 4 and 5 of the Application, Chesapeake discusses replacing propane with natural gas. Chesapeake cites to a Pace Global Energy Business Advisory which states that a natural gas furnace is projected to cost a third less, **or a third more**, than an electric furnace, with larger savings if converting from propane. (Emphasis Added). I note that the Pace Global paper thus indicates that natural gas may prove more expensive over a 20-year period than electricity

or propane, but Chesapeake ignores that part of the Pace Global passage that it cites in paragraph 4 of its Application.

b) In paragraph 7 of its Application, Chesapeake states: “By approving this Application, the Commission will enable Chesapeake to extend its distribution system to many of the CGSs in its service territory and, in the process, **establish the anchor customers that will facilitate greater access to natural gas for other residents and businesses in the proximity.**” (Emphasis added).

c) In paragraph 15 of the Application, Chesapeake states: **“Chesapeake’s purchase and conversion of the CGSs will provide the ideal platform to extend service to areas in Kent and Sussex counties not presently served by natural gas.”** (Emphasis added).

d) In the Direct Testimony of Shane Breakie submitted with the Application, the witness states: “Conversion of these systems will help Delawareans including, but not limited to, residents in the communities being converted, **residents in the surrounding areas, current and potential businesses,** as well as existing Chesapeake utilities customers.” Breakie Testimony, p. 5, lines 20-23. (Emphasis added).

e) In his Direct Testimony, p. 7, lines 8-11, Shane Breakie testifies as follows: “Additionally, once Chesapeake installs distribution mains to reach these customers **it will be easier for Chesapeake to reach and convert other residents and businesses near those lines that are unable to be economically reached today.**” (Emphasis added).

f) In his Direct Testimony, p. 8, line 19 to p. 9, line 1, Shane Breakie discusses the following residential communities owned by Sharp Energy, Inc., Chesapeake’s propane CGS subsidiary, including “The Plantations, Peninsula, Bayview Landing, and Harts Landing.” He further says: “**We have also received recent requests from communities whose systems are owned by unaffiliated companies, including the Reserves at Lewes Landing and Nassau Grove.**” (Emphasis added).

g) In his Direct Testimony, p.9, lines 7-9, Shane Breakie testifies: “The book value of Sharp’s, **or another propane providers’, Community Gas Systems** reflect depreciation rates and valuation from a non-regulated entity for a system that has not been “dedicated to public use.” (Emphasis added).

5. Chesapeake's Application led to the Settlement Agreement approved in Commission Order No. 9594. The Settlement Agreement and Order No. 9594 set in place a process for greatly extending Chesapeake's natural gas infrastructure to Kent and Sussex Counties, by converting community propane systems to natural gas, thereby creating anchor customers to expand Chesapeake's natural gas system. Chesapeake's proposes to convert forty or more propane Community Gas Systems owned by its affiliate Sharp Energy, Inc. to natural gas over an undefined period of years. Chesapeake's Application defines its more immediate plans: "Chesapeake is expanding within eastern Sussex County due to new customer growth and projects to have natural gas main at or near the entrance of approximately twelve Sharp-owned CGS systems, representing over 5,000 residential units, within the next five years." Application, p. 8, par. 13.

6. The Settlement Agreement and Order No. 9594 threaten economic injury to the DAAEP and its members, because Chesapeake's intent, as reflected in its Application and the provisions of the Settlement Agreement is to injure the DAAEP and its members, by converting their propane customers to Chesapeake's natural gas over an undefined period of more than five years. Chesapeake's plan threatens economic injury to the DAAEP and its members, by taking away their sources of income to sustain themselves. The threat posed by Chesapeake includes the threat, over time, to put the DAAEP and its members out of business

completely. Thus, the Settlement Agreement and Order No. 9594 threaten substantial economic injury to the DAAEP and its members. The DAAEP and its members are threatened with clear economic injury by the Settlement Agreement and Order No. 9594. And if the DAAEP's members suffer economic injury, that injury will, in turn, threaten economic injury to the DAAEP itself, which must maintain its membership in order to continue to exist.

7. The provisions of the Settlement Agreement and Order No. 9594 are beyond the subject matter jurisdiction and power of the Public Service Commission. The statutes in Title 26 of the Delaware Code that create the Public Service Commission limit its jurisdiction. By limiting the jurisdiction of the Public Service Commission, the statutes demonstrate an intent that the statutes and the Commission not be used to cause or threaten economic injury to private, unregulated organizations and businesses, such as the DAAEP and its members. The DAAEP and its members should not be affected by actions of the Commission that exceed its statutory authority, as has happened with its approval of the Settlement Agreement in Order No. 9594. Yet, the Settlement Agreement and Order No. 9594, which exceed the Commission's authority, interfere with the unregulated business of the DAAEP and its members, and threaten them with substantial economic injury. Under Delaware law, propane business and customers cannot be regulated by the Commission. The Settlement Agreement and

Order No. 9594 impose regulation on propane and exceed the Commission's jurisdiction. The Commission's decision to regulate propane threatens the DAAEP and its members. In addition, the DAAEP has a protected Constitutional contractual and property interest in the previous Settlement Agreements that it entered into with Chesapeake, the Public Advocate, and the Commission Staff.

8. As the DAAEP established in its Complaint, Delaware public policy favors renewable energy sources such as solar, over natural gas, for Delaware's long term energy future. See, for example, Complaint paragraphs 30-33, and 26 Delaware Code, Sections 351(b) and 1500 (b); 26 Delaware Code, Ch. 10; 7 Delaware Code Section 6043. Section 1500(a) and (b) provide, in part:

**§ 1500 Short title; declaration of policy.**

(a) This chapter shall be known and may be cited as the "Energy Efficiency Resource Standards Act of 2009."

(b) The General Assembly finds and declares that:

(1) Cost effective energy efficiency shall be considered as an energy supply source before any increase or expansion of traditional energy supplies; and

(2) Energy efficiency is among the least expensive ways to meet the growing energy demands of the State; and

(3) Providing affordable, reliable, and clean energy for all consumers in Delaware is in the public interest and will yield social, economic, and welfare benefits for generations to come; and

(4) The benefits of a strong focus on cost effective energy efficiency accrue to the public at large, and all electric and natural gas suppliers and consumers in Delaware share an obligation to develop a minimum level of these resources in the energy supply portfolio of the State.

(5) The benefits of cost effective energy efficiency include lowered consumer spending on energy, improved regional and local air

quality, improved public health, increased electric supply diversity, increased protection against price volatility and supply disruption, improved transmission and distribution performance, and new economic development opportunities;

9. The DAAEP, its officers and members, and their respective owners and employees, and also the customers of their members will suffer the environmental, social, and public health injuries from environmental degradation due to the uneconomic commitment to large-scale expansion of fossil fuel use into the 2050s and 2060s as proposed by Chesapeake. Our businesses will be hurt financially by extreme weather events, including heavy storms and flooding, and in ways that the average Delaware citizen and businesses will not. And the DAAEP's members have businesses and employees located in lower Delaware, with its low sea level, and will disproportionately suffer injury. Delaware's economy and the DAAEP and its members will suffer economically due to the adverse environmental effects of Chesapeake's Settlement Agreement and its promotion of natural gas into the 2050s and 2060s as more and more companies and consumers look to locate and expand where there is a commitment to clean, renewable energy, as many companies are already doing. Our businesses and people will suffer public health, social, and economic injuries.

10. The Delaware General Assembly and the Governor recognized in 7 Delaware Code, Section 6043, that the emissions of greenhouse gases is causing changes in the Earth's environment, and climate change poses serious potential

risks to human health and terrestrial and aquatic ecosystems globally regionally, and in Delaware. In Title 26 Delaware Code, Section 1500(b)(3), the General Assembly and the Governor recognized, in 2009, that affordable, reliable clean energy for all consumers in Delaware is in the public interest and will yield social, economic, and welfare benefits for years to come. In addition, the General Assembly and the Governor recognized in 26 Delaware Code, Section 351(b) that the use of renewable energy sources should be encouraged over legacy fossil fuels like natural gas, because it benefits the public, including improved regional and local air quality and improved public health. And Delaware recognized ten years ago, in 77 Delaware Laws, Chapter 453, and 26 Delaware Code, Chapter 10, that community-owned energy generating facilities offer advantages for Delawareans, as compared to centralized, large scale energy distribution systems, as proposed by Chesapeake and promoted by its Settlement Agreement and Order No. 9594.

Executed on the 28 day of July (month) 2020 (year).

Brian Reynolds (Printed Name)

[Handwritten Signature] (Signature)