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BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF DELAWARE

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IN THE MATTER OF THE APPLICATION OF	)	
CHESAPEAKE UTILITIES CORPORATION FOR	)	
APPROVAL OF NATURAL GAS EXPANSION	)	PSC DOCKET NO. 12-292
SERVICE OFFERINGS	)	
(FILED JUNE 25, 2012)	)	

THE PUBLIC ADVOCATE'S MOTION TO CLOSE DOCKET

The Public Advocate, by and through his counsel, hereby moves the Delaware Public Service Commission (the "Commission") to close this docket, and in support of its motion avers as follows:

BACKGROUND

1. On June 25, 2012, Chesapeake Utilities Corporation ("Chesapeake" or the "Company") filed a Petition with the Delaware Public Service Commission (the "Commission") proposing new rates and offerings to facilitate the expansion of natural gas service, primarily in eastern Sussex County, Delaware. Chesapeake also sought changes to its existing natural gas tariff pages regarding new installations.

2. First, Chesapeake proposed an Infrastructure Expansion Service ("IES") rate to finance the extension of the natural gas distribution system into Sussex County. The IES rate would be a fixed charge of between $8 and $125 per month for customer classes in a specifically defined area of Sussex County. Residential customers would pay either $8 per month or $25 per month depending on whether they were heating customers. General Service customers would pay $40 per month and medium volume customers would pay $125. Chesapeake did not propose to charge the IES to Large Volume Service or High Load Factor Service customers.

3. Second, Chesapeake proposed a Distribution Expansion Service ("DES") rate of $1.25 per month to be paid by all *existing* and future Chesapeake customers. According to

Chesapeake, the DES rate was intended "...to support the administration and implementation of the proposed service offerings along with the enhanced customer growth anticipated as a result of the proposed natural gas expansion service offerings." (Tietbohl Direct Testimony, page 16).

3. Third, Chesapeake proposed a Conversion Financing Service for customers interested in converting their existing equipment and internal fuel piping to natural gas. As proposed, the maximum level of assistance would be $1,500 for residential customers and $3,000 for commercial customers with 3, 5 or 10-year payback periods, with a return component equal to its authorized rate of return. (*Id.* at 24). Chesapeake also proposed an optional Conversion Management Service, whereby for a one-time $100 fee, Chesapeake would assist the customer in managing the conversion process with outside contractors performing the work.

4. Next, Chesapeake proposed a tariff amendment to change the measure of service installations from the current method of six times net-revenue test to an Internal Rate of Return-based model. Chesapeake claimed that "the current parameters will not be sufficient going forward, especially considering the Company may be converting existing communities and developments with a significant number of customers." (*Id.* at 27-28).

5. Finally, Chesapeake proposed eliminating current tariff provisions that prohibit charging for service installations within 75 feet of an existing distribution main, or for extension charges of less than 100 feet.

6. The Commission opened this docket on July 3, 2012 (Order No. 8174) and suspended Chesapeake's application pending the completion of evidentiary hearings; appointed a Hearing Examiner to schedule and conduct a public comment session and evidentiary hearings and handle other procedural matters; and appointed rate counsel.

7. The Public Advocate, the Delaware Department of Natural Resources and Environmental Control, Delmarva Power & Light Company, the Caesar Rodney Institute and the Delaware Association of Alternative Energy Providers all intervened in the docket.

8. The Bay Breeze Homeowners Association and Nick Hammonds, Principal of Jack Lingo Asset Management, LLC, a Sussex County developer, submitted letters supporting Chesapeake's proposed expansion of natural gas service into eastern Sussex County.

9. After the close of the intervention period, Staff suggested that the parties participate in a workshop to discuss the issues and determine whether any resolution could be reached prior to conducting evidentiary hearings. The Hearing Examiner accepted Staff's proposal. Thereafter, the parties conducted discovery on Chesapeake, submitted confidential position papers and attended workshops on September 27 and December 10, 2012.

10. The last position papers were filed on January 4, 2013 in response to Chesapeake's proposed modifications to its original proposal. While the specifics of the position papers and the discussions at the workshop are confidential, it suffices for purposes of this Motion to say that although support for expansion of natural gas infrastructure into unserved and underserved portions of Delaware continues, none of the interveners supported Chesapeake's application or the proposed modifications. Therefore, to proceed further with this docket without the benefit of the expense and revenue data obtained through a normal rate case proceeding would be a waste of this Commission's time and resources, as well as those of the intervening parties.

ARGUMENT

A. The Commission Should Close This Docket.

10. The Public Advocate wants to make clear that he does not oppose the expansion of natural gas service into areas that do not currently have natural gas service. But the Public Advocate contends that the Company's application for expansion rates is deficient in three respects: (1) the Company has never attempted to implement *any* proposed expansion under its tariffed "Experimental Area Expansion Program;" (2) it constitutes single-issue ratemaking, to which the Public Advocate is adamantly opposed; and (3) under the proposed DES rate, current customers would subsidize the expansion of natural gas service to future customers. The Public Advocate continues his strong opposition to such subsidies. The Public Advocate respectfully submits that these deficiencies justify the Commission to order that this proposed expansion plan be considered in the context of a full rate case where all of the Company's revenues and costs can be examined to determine the most economic and efficient way to further the goal of extending natural gas service in Delaware.

1. The Company's Application Does Not Address Expansion Into Unserved Areas Using The Experimental Area Expansion Program Contained In Its Tariff.

11. The Company's tariff includes Section 6.4 titled "Experimental Area Extension Program" that is applicable to residential extensions of natural gas facilities. That section, which was approved in Order No. 7434 in Docket No. 07-186, provides:

> For residential facilities that are to be extended to one discrete geographic area and require a CIAC, the Company may establish an Area Extension Program ("AEP") on an experimental basis to recover these costs plus interest at a rate equal to the Company's cost of capital. The AEP amount will be billed to customers served by the extension program providing that the CIAC can reasonably be expected to be collected over an amortization period not to exceed ten years.

The AEP, which shall be stated on a per Ccf basis, shall apply with respect to all natural gas sold or transported to Company customers located within the applicable discrete geographic area during the amortization period.

AEP rate will be calculated by dividing (1) the amount of additional revenue required in excess of the Company's applicable tariff rates, including any taxes calculated on gross revenue, by (2) the volume of gas reasonably forecast to be sold or transported to customers within the applicable discrete geographic area during the amortization period. The additional revenue required is the allowed cost of capital as determined in accordance with the Company's internal rate of return model on file with the Public Service Commission.

AEP amounts collected shall be used specifically to amortize the cost of the project facilities within the applicable discrete geographic area requiring a CIAC. If the AEP collected is sufficient before the expiration of the amortization period to fully amortize the excess costs, including the provision for the accumulated cost of capital, the AEP for said discrete geographic area shall terminate immediately, and the Company shall promptly credit the affected customers for amounts over collected, if any. The Company will absorb any under recovery in existence at the end of the amortization period.

The Company shall have the right to reassess the amount of revenue available to recover the unamortized excess cost of the facilities on an ongoing basis and recalculate the AEP rate as needed, provided, however, to the extent that any change in the AEP rate is required, the Company shall only have the right to change the rate once during the amortization period, subject to the maximum rate limitations set forth above.

The initial AEP rate computation and any further change to the established rate will be submitted to the Public Service Commission for review and approval prior to the effective date of the surcharge. The AEP rate will then appear on Rate Schedule "AEP" in the Company's tariff. The Experimental Area Extension Program will be evaluated by the Commission at the expiration of 18 months after the filing of the one trial AEP application.

12. Unlike the Company's current proposal, the AEP tariff provision has been vetted by many of the parties participating in this docket (including the Delaware Association of

Alternative Energy Providers), is cost-based, and does not create a subsidization issue. The Public Advocate is unaware of any attempt by the Company to expand into unserved areas using the AEP. There is nothing in the Company's application or supporting testimony that explains why it believes the experimental AEP created in Section 6.4 would not enable it to further the goal of expanding natural gas service to unserved areas. At the very least, the Company should request an amendment of its tariff to remove Section 6.4 if it believes such language prohibits expanding into unserved areas. But the Company's application and supporting testimony completely ignores Section 6.4; one would think it did not exist.

13. The AEP exists. The Public Advocate understands that it is designated as experimental, but the idea behind including it in the Company's tariff was to see how it would work in practice. Thus, if any expansion is to occur, the Company should implement the AEP contained in its tariff instead of pretending that it does not exist.

2. <u>The Application Constitutes Single-Issue Ratemaking</u>.

14. The Public Advocate acknowledges that the General Assembly has authorized the Commission to conduct limited issue rate proceedings. *See* 26 *Del. C.* §304(b). However, the Commission is not *required* to conduct such proceedings, and it has generally avoided doing so.

15. The Public Advocate is adamantly opposed to single-issue ratemaking. As the Commission knows, the basic formula for determining rates is that a utility's total revenue requirement equals its operating expenses plus a reasonable return on its used and useful plant (rate of return times its total rate base). All of the utility's expenses are examined, and an appropriate rate of return on equity is approved. But that will not happen in this case if the Company's application goes to an evidentiary hearing because the only items that will be considered are the expansion rates that the Company has proposed. This Commission, and

Commissions in other jurisdictions, have recently approved returns on equity below 10%. The Commission approved a 10.25% return on equity for the Company in its last base rate case. (See Docket No. 07-186, Order No. 7434 dated Sept. 2, 2008). We also know that the cost of debt has decreased since September 2008. What other changes might there be in expenses and rate base that might justify different (lower) expansion rates? We will not know, because if the Company's application proceeds to an evidentiary hearing, the justness and reasonableness of its proposed rates will be determined without any information on the Company's current expenses or what an appropriate return on equity is now.

16. While the Company indicated that the purpose of the DES was "...to support the administration and implementation of the proposed service offerings along with the enhanced customer growth anticipated as a result of the proposed natural gas expansion service offerings" (Tietbohl Direct at 16), it appears that its real purpose is to compensate the Company for declining per customer usage. If declining consumption is causing the Company financial distress, then it should file a base rate case where all revenues and costs can be properly evaluated. Similarly, the Company's discovery responses showed that the IES was not cost-based and was developed without consideration of all of the appropriate ratemaking principles applicable in a base rate case. Moreover, under the Company's proposal, IES revenue would flow to its bottom line as increased earnings. If the IES is required in order to make capital expansion possible, then, at a minimum, these revenues should be used to offset the plant investment that is required to expand service. And if the Company believes that it is necessary to charge higher rates in a portion of its service territory to promote expansion, that issue should be examined in a base rate case, in which all appropriate costs can be reviewed and appropriate cost allocation methods can be developed. Of course, the Company could simply fund the expansion

itself, through short term debt, which is the normal procedure to fund construction. It has more than enough debt capacity to do so.

17. The Public Advocate respectfully submits that the Commission should not engage in single-issue ratemaking where, as here, it is apparent that there are other operating costs that should be taken into account in determining the appropriate rates.

3. The Company's Proposed DES Rate Will Result In Current Customers Subsidizing Potential Future Customers.

18. Last, this Commission is well aware of the Public Advocate's opposition to subsidies between and/or among a utility's customer classes where avoidable. If the purpose of the DES is to support expansion activities in Sussex County (*see* Tietbohl Direct at 16), then it should be rejected because it will result in an undue and unjust subsidy by existing customers to customers in the expansion area and should be company financed, not ratepayer funded. The Public Utilities Act forbids public utilities from assessing unjustly discriminatory or unduly preferential rates. 26 *Del. C.* §303(a). Insofar as the Company proposes to collect the DES rate from existing customers as well as potential future customers, it is unduly preferential to those potential future customers because the amount of the expansion costs for which they will be responsible is reduced by the amount collected from Chesapeake's existing customers, who will derive no benefit from Chesapeake's expansion activities. And whether a proposed rate is *small or large* is not the point: a subsidy is a subsidy regardless of the amount, and a subsidy sends irrational economic signals to capital markets.

CONCLUSION

WHEREFORE, the Public Advocate respectfully requests the Commission close the current docket. In the alternative, if the Company wishes to have the Commission consider any rate other than the existing tariffed AEP for expansion into unserved areas, the Commission

should order the Company to file a full base rate case.

Respectfully submitted,

/s/ Regina A. Iorii

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Dated: January 4, 2013

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BEFORE THE PUBLIC SERVICE COMMISSION
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IN THE MATTER OF THE APPLICATION OF CHESAPEAKE UTILITIES CORPORATION FOR APPROVAL OF NATURAL GAS EXPANSION SERVICE OFFERINGS (FILED JUNE 25, 2012)	)))))	PSC DOCKET NO. 12-292

CERTIFICATE OF SERVICE

Regina A. Iorii, Esq. hereby certifies that on January 4, 2013 she caused the document titled **THE PUBLIC ADVOCATE'S MOLTION TO CLOSE DOCKET** to be served on all persons identified on the attached service list in the manner indicated for each person thereon.

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