

BEFORE THE PUBLIC SERVICE COMMISSION

OF THE STATE OF DELAWARE

IN THE MATTER OF THE APPLICATION OF )  
CHESAPEAKE UTILITIES CORPORATION )  
TO MAKE REVISIONS TO ITS GAS TARIFF ) PSC DOCKET NO. 97-72t (REMAND)  
WITH RESPECT TO SERVICE INSTALLATIONS )  
AND GAS EXTENSIONS FOR PROVIDING GAS )  
SERVICE (FILED MARCH 6, 1997) )

ORDER NO. 5340

AND NOW, this 8th day of February, A.D. 2000;

WHEREAS, the Commission has received and considered the Findings and Recommendations of the Hearing Examiner dated December 20, 1999 in the above-captioned docket, which was submitted after a duly noticed public evidentiary hearing;

AND WHEREAS, the Hearing Examiner recommends that the Proposed Settlement, as executed by representatives of the Commission Staff, the Division of Public Advocate, the Delaware Association of Alternative Energy Providers, Inc., and Chesapeake Utilities Corporation (the "Company"), be adopted without modification, including the tariff pages attached thereto as Exhibit "C;"

AND WHEREAS, the Hearing Examiner finds that the Proposed Settlement is a just and reasonable compromise to resolve the proceeding consistent with the public interest;

AND WHEREAS, the Commission having determined, based upon the record developed below, including the Findings and Recommendations of the Hearing Examiner, and such investigation and inquiry as each Commissioner deems appropriate, that the Proposed Settlement, dated August 17, 1999, including the tariff pages attached thereto, should be approved without modification and allowed to go into effect on one day's notice; now, therefore,

IT IS ORDERED:

1. That, by and in accordance with the affirmative vote of a majority of the Commissioners, the Commission hereby adopts the December 20, 1999 Findings and Recommendations of the Hearing Examiner, appended to the original hereof as Attachment "A."

2. That the Proposed Settlement is adopted as a reasonable resolution of this proceeding and its terms and conditions incorporated herein.

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

BY ORDER OF THE COMMISSION:

/s/ Robert J. McMahon  
Chairman

/s/ Joshua M. Twilley  
Vice Chairman

/s/ Arnetta McRae  
Commissioner

/s/ Donald J. Puglisi  
Commissioner

/s/ John R. McClelland  
Commissioner

ATTEST:

/s/ Karen J. Nickerson  
Secretary

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

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FINDINGS AND RECOMMENDATIONS OF THE HEARING EXAMINER

DATED: DECEMBER 20, 1999

ROBERT P. HAYNES  
HEARING EXAMINEE

BEFORE THE PUBLIC SERVICE COMMISSION

OF THE STATE OF DELAWARE

IN THE MATTER OF THE APPLICATION OF )  
CHESAPEAKE UTILITIES CORPORATION )  
TO MAKE REVISIONS TO ITS GAS TARIFF WITH ) PSC DOCKET NO. 97-72T (REMAND)  
RESPECT TO SERVICE INSTALLATIONS AND GAS )  
EXTENSIONS FOR PROVIDING GAS SERVICE (FILED )  
MARCH 6, 1997) )

FINDINGS AND RECOMMENDATIONS OF THE HEARING EXAMINER

Robert P. Haynes, duly appointed Hearing Examiner of this Docket pursuant to 26 Del. C. 502 and 29 Del. C. ch. 101, by Commission Order No. 4986, dated December 15, 1998, reports to the Commission as follows:

I. APPEARANCES

On behalf of the Applicant, Chesapeake Utilities Corporation-Delaware Division:  
SCHMITTINGER & RODRIGUEZ, P.A.  
BY: WILLIAM A. DENMAN, ESQUIRE

On behalf of the Public Service Commission Staff:  
ASHBY & GEDDES  
BY: JAMES McC. GEDDES, ESQUIRE

On behalf of Intervenor, Delaware Association of Alternative Energy Providers, Inc.:

RICHARDS, LAYTON & FINGER  
BY: GLENN C. KENTON, ESQUIRE

On behalf of the Division of Public Advocate:  
PATRICIA A. STOWELL, Public Advocate

On behalf of Intervenor, Delmarva Power & Light Company:  
BY: RANDALL V. GRIFFIN, ESQUIRE

## II. PROCEDURAL HISTORY

1. On March 6, 1997, Chesapeake Utilities Corporation - Delaware Division ("Chesapeake" or "the Company") applied to the Delaware Public Service Commission ("Commission") for approval to change Section VI of its Gas Service Tariff No. 4, which sets forth the terms and conditions governing Chesapeake's extension of gas mains to serve new customers.

2. Pursuant to 26 Del. C. 209(a), the Commission, by Order No. 4453, dated March 18, 1997, suspended the proposed changes in order to solicit objections and comments from interested parties.

3. Delmarva Power & Light Company ("DP&L") and the Delaware Association of Alternative Energy Providers, Inc. ("DAAEP") each filed a petition for leave to intervene, and both were granted. The Division of Public Advocate ("DPA") filed its notice of intervention.

4. The Commission, by Order No. 4479, dated April 29, 1997, assigned the proceeding to Hearing Examiner William O'Brien to preside over the hearings and to prepare Findings and Recommendations.

5. Hearing Examiner O'Brien held a public comment session on July 23, 1997, and an evidentiary hearing on September 15, 1997.

6. Hearing Examiner O'Brien issued his Findings and Recommendations on November 25, 1997, in which he recommended that the Company's proposed tariff change be rejected. He recommended that the Company's economic test to evaluate main extensions should be based upon six times the net annual revenue (hereinafter "6x test") projected from a main extension or service line installation project or such alternative test as approved by the Commission Staff on a case by case basis.

7. The Commission in Order No. 4730, issued February 24, 1998, adopted Hearing Examiner O'Brien's recommendations.

8. On March 5, 1998, Chesapeake filed its compliance tariff, which DAAEP opposed in its April 29, 1998 letter to the Commission.

9. On November 13, 1998, Chesapeake filed a motion for clarification that sought to confirm the compliance filing. In the alternative, the Company requested that the proceeding be remanded to a Hearing Examiner to determine the estimated number of customers to use in the 6x test. The Company asserted that Staff supported a remand. In addition, Chesapeake sought Commission approval of a minor tariff amendment to include

customer advances and Contribution In Aid of Construction ("CIAC") as a means of funding extensions that otherwise do not satisfy the 6x test.

10. In Order No. 4986, issued December 15, 1998, the Commission remanded the proceeding to this Hearing Examiner for findings and recommendations on the appropriate number of customers to use in the 6x test and the funding of main extensions by CIAC and customer advances.

11. The parties participating in the remand were Chesapeake, Staff and DAAEP. The parties submitted supplemental initial and reply memoranda on the remanded issues. A hearing was held on March 24, 1999 to further develop the record.

12. On April 14, 1999, I issued Findings and Recommendations wherein I recommended that DAAEP's position be adopted and that the Company's tariff be modified so that the 6x test used the number of customers proposed to be initially connected to the Company's facilities. The Company had argued for use of the projected level of customers four years after the commencement of a development.

13. In lieu of filing exceptions, the parties engaged in settlement discussions and on June 7, 1999 they sought from the Commission a remand to submit a proposed settlement. In Order No. 5153, issued June 23, 1999, the Commission granted the parties' request and the case was remanded to consider a settlement. On August 18, 1999, the parties submitted a document entitled "Proposed Settlement," dated August 17, 1999. The Proposed Settlement was signed by representatives of the Company, Staff, DPA, and DAAEP.

14. A duly noticed hearing was held on October 25, 1999, at which time Staff and the Company presented testimony in support of the Proposed Settlement.

15. The record consists of 18 exhibits and 389 pages of verbatim transcripts. I have considered the entire record of this proceeding and, based thereon, I submit for the Commission's consideration these Findings and Recommendations.

### III. SUMMARY OF THE EVIDENCE

16. In my previous Findings and Recommendations, dated April 14, 1999, I reviewed the record evidence at that time. Consequently, in these Findings and Recommendations I will review only the evidence submitted in support of the Proposed Settlement, which was admitted as Exhibit 18 and a copy of which is attached hereto as Appendix "A."

17. The Company presented the direct testimony of Jeffrey R. Tietbohl, the Company's Director of Regulatory Affairs. (Tr. 365-378.) Mr. Tietbohl testified on the following five issues addressed in the Proposed Settlement: 1) the appropriate economic test to be used for service line and main extensions of more than 500 feet to serve new residential developments, 2) the economic test for main extensions of less than 500 feet to serve new residential subdivisions; 3) the economic test for main extensions to serve existing residential developments; 4) the economic test for main extensions to serve commercial and industrial customers; and 5) the ability of the Company to use contributions in aid of construction, customer advances, letters

of credit or other forms of financial guarantees for projects that do not meet the appropriate economic test. (Tr. 366-67.)

18. Mr. Tietbohl explained that part of the Proposed Settlement includes the use of the Internal Rate of Return Model (IRR) as the economic test for new residential developments requiring main extensions of more than 500 feet. The IRR in the Proposed Settlement has been modified from the Company's original proposal submitted in 1997 and now includes the specific preconditions or factors to be used in calculating the IRR's economic test. (Tr. 368-69.)

19. The specific factors are set forth in Exhibit B of the Proposed Settlement. (Ex. 18.) These factors are to be used in the model set forth in Exhibit A of the Proposed Settlement. The first factor is the number of customers, which is to be based on the number of total lots approved for the subdivision. In addition, this factor specifies that customers are estimated to be connected over a period not to exceed six years, with 25% of the total customers connected in each of the first three years. The second factor is the annual non-fuel revenue of \$385 per residential heating customer, which is based on the level approved in PSC Docket No. 95-73, Phase II. The third factor is the estimated construction cost for the Company's facilities. The fourth factor is the Company's cost to install service lines and meters, as calculated annually with the calculations to be provided to Staff by February 1 of each year for the first three years. The fifth factor is the Company's estimated operating and maintenance (O&M) expense for the main extension, which is to be based on the Company's 3-year average variable cost per customer. This factor may be modified if a particular project's cost is inconsistent with the 3-year average, in which case the Company's O & M variable cost per customer for the most current year will be used. The Company is to provide Staff with its calculation of the variable O&M cost per customer by March 1 for the first three years. The sixth factor is the book depreciation life for the mains, which is not to exceed 25 years in the IRR. The seventh factor is the Company's cost of capital, which is to be based on the cost of capital approved in PSC Docket No. 95-73, Phase I.

20. Mr. Tietbohl testified that the Proposed Settlement provides a procedure for the Company to notify Staff, DPA and DAAEP of any proposed revisions. Any Staff objection to the proposed change to the factors in Exhibit B is to be made within twenty days of the notice, and if there is an objection, then no change could occur without Commission approval. (Tr. 370.) The factors can change without Commission approval if Staff does not object and for the annual updates specified within the factors. The annual updates are for the Company's cost to install service lines and meters, and for the Company's three-year average of O&M expenses. No change in the model in Exhibit A is to occur without Commission approval.

21. Mr. Tietbohl also explained that the Proposed Settlement maintains the 6x test for main extensions of less than 500 feet for residential developments, with the revenue to be based on the estimated number of customers to be connected during the first year. (Tr. 371-72.)

22. For existing residential developments, Mr. Tietbohl indicated that the Proposed Settlement would be based on the 6x test based on the number of customers who are expected to connect within three months of the main extension and who have signed the

Company's service application. (Tr. 371.)

23. For commercial and industrial customers, Mr. Tietbohl described the Proposed Settlement's use of the 6x test based on the customer's estimated annual non-fuel revenue.

24. Mr. Tietbohl explained that the Proposed Settlement also requires the Company for a three year period to submit within sixty days of December 31 of each year a report on the projects that used the IRRM for the evaluation of the main extension. (Tr. 372, Ex. 18 at 6.)

25. Finally, Mr. Tietbohl indicated that the Proposed Settlement allows the Company to construct a main extension financed by CIAC, refundable customer advances, letters of credit or any other form of financial guarantee if a project does not meet the IRRM or 6x economic tests set forth in the Proposed Settlement.

26. Mr. Tietbohl was cross-examined by DAAEP counsel on whether the annual filings would be available to DAAEP. He explained that the annual reports to be submitted to the Commission, and, as such, will be available to DAAEP. (Tr. 377.) Mr. Tietbohl further stated under examination his opinion that the IRRM will likely be used for the majority of the Company's future main extensions if the Proposed Settlement is adopted. (Tr. 376.)

27. Staff presented Susan Neidig, Public Utilities Analyst, as its witness in support of the Proposed Settlement. (Tr. 377-83.) Ms. Neidig explained that Staff supported the Proposed Settlement because it resolved Staff's prior concern with the IRRM as an economic test that was too complicated and which could allow the Company to reverse engineer the test through the factors used in the test. She noted that the IRRM's factors, as set forth in the Proposed Settlement, provide guidelines and limit the Company's discretion. Staff's support for the Proposed Settlement also was based on the Company's annual filings, which, Ms. Neidig indicated, will allow Staff to monitor the use of the IRRM as a temporary economic test for three years. Moreover, she testified that the 6x test would still be used for main extensions of less than 500 feet, for service to existing residential developments, and for service to commercial and industrial customers. Finally Ms. Neidig testified that the Proposed Settlement was similar to the tariff for Delmarva Power & Light Company in that it allows future revenue to be included in the calculation of the economic test.

28. In addition to the testimony received at the October 25, 1999 hearing, the record was supplemented by exhibits containing the hearing's public notice and the Proposed Settlement, a copy of which is attached hereto as Appendix A.

#### IV. DISCUSSION

29. I recommend that the Commission adopt the Proposed Settlement as a just and reasonable resolution of the outstanding issues in this proceeding. This recommendation is based on the comprehensive nature of the Proposed Settlement, which reflects a reasonable compromise acceptable to all parties. The record reflects that the issue of the Company's proposed main extension tariff was controversial and extensively litigated by the

Staff and the DAAEP prior to the Proposed Settlement.

30. In my previous Findings and Recommendations, I ruled in favor of DAAEP's position. Rather than engage in further litigation, the parties, to their credit, were able to resolve their differences prior to the Commission's decision. Thus, the Proposed Settlement is based on a compromise among the parties. Settlements are to be encouraged pursuant to Section 512 of the Public Utilities Act. 26 Del. C. 512. Consequently, I am reluctant to disturb a comprehensive settlement unless it violates the law or is contrary to the public interest. In my opinion, the Proposed Settlement does not violate any law, nor is it contrary to public interest, as explained below.

31. The Proposed Settlement is not contrary to the public interest because it is based on a careful balancing of the Company's interest in promoting the expansion of its facilities and connecting new customers with the Staff's and DAAEP's interest in preventing ratepayers from absorbing the cost of an uneconomical expansion. An uneconomical expansion occurs if the Company's main extension fails to generate sufficient revenue to provide an adequate return after a certain period of time. The controversy arises over the projections used for the number of customers to be connected and how long until they are connected. The Proposed Settlement attempts to solve the controversy through different economic tests applied to five main extension scenarios, as discussed below.

A. Main Extensions of 500 Feet or More in Length to New Residential Developments

32. The first main extension scenario is service to new residential developments that require a main extension of 500 feet or more in length. Under the Proposed Settlement, the economic test to be used is an IRRM with predetermined preconditions. The Company's last general rate increase proceeding is the foundation for several of the factors, including the average residential customer's non-fuel revenue, and the rate of return on capital. The IRRM's important factor of the number of customers is to be based on the assumption that 25% of the total development's potential customers will connect to the Company's facilities in each of the first three years, and that all potential lots will be connected within six years. I cannot conclude that this assumption is unreasonable on its face, particularly based on the current real estate market. Moreover, the Proposed Settlement's reporting requirement will enable the Staff to evaluate this assumption based on actual results, as they become available in the future. Thus, I conclude that the factors set forth in Exhibit B are reasonable and balance the parties' interests in a manner consistent with the public interest. The factors provide sufficient control over the Company's discretion, but also allow the Company some flexibility.

B. Main Extensions Less Than 500 Feet in Length To New Residential Developments.

33. The second main extension scenario is for extensions under 500 feet to new residential developments. Under the Proposed Settlement, the economic test to be used is the 6x test; that is, to compare the construction cost of the main extension to six times the annual revenue test from the estimated

number of customers to be connected. This 6x test uses the estimated number of customers to be connected in the first year. The specific determination of the number of customers at a certain time resolves DAAEP's prior criticism of the Commission's approved 6x test, which left undefined the projected number of customers. The number of customers is important because it is used to calculate the estimated revenue from the main extension.

34. The Company's prior position advocated the use of the estimated number of customer to be connected to the main extension four years after it is built. DAAEP advocated the number of customers to be initially connected to the main extension. The number of customers connected during the first year appears reasonable as a compromise, although this estimate is left to the Company's discretion. In a compromise all potential problems cannot be addressed to the satisfaction of all parties. I am satisfied that estimating the number of connections one year in advance should not be too controversial in light of the time needed to construct the houses. Should a party allege that the Company has inflated an estimate, then that party can seek relief from the Commission. Thus, the number of customers estimated to be connected during the first year is reasonable to use as the multiplier in the 6x test for main extensions of less than 500 feet to new residential developments.

#### C. Main Extensions to Existing Residential Developments

35. The third main extension scenario is for service to existing residential developments. The Proposed Settlement uses the 6x test, and calculates the annual customer revenue from the number of customers intending to connect within three months and who have signed an application to receive gas from the Company. The use of this economic test for existing residential developments also appears reasonable, particularly since it is supported by DAAEP, which represents competing fuel suppliers.

36. Service to existing developments entails obvious competition with other energy sources. An estimate of the number of connections must consider that the customers must incur some cost in order to convert to natural gas. The cost to convert means that there will be a higher risk in receiving a projected level of revenue from the main extension, as compared to the risk in serving a new development. Thus, the shorter, three month connection time and the requirement of a signed application appears prudent for this scenario based on the greater risk that projected revenue may not be realized. The number of customers to be connected within three months and the signed application are requirements equivalent to the number to be initially connected, which I previously found to be reasonable. Thus, I recommend that the Commission adopt this portion of the Proposed Settlement.

#### D. Main Extensions To Serve Commercial and Industrial Customers

37. The fourth main extension scenario is for service to commercial and industrial customers. The Proposed Settlement uses the 6x test based upon the Company's estimated annual non-fuel revenue. The reliance on the Company's estimate is reasonable and unavoidable in light of these customers' variation in gas usage. The 6x test may result in a significant capital

investment by the Company for a high usage customer, but such a customer should provide the Company with a higher return than a low usage customer. Thus, I find that this provision is reasonable. Finally, as with the 6x test for main extensions under 500 feet, the Commission can address on a case-by-case basis any future complaints that allege inflated estimates for this main extension scenario.

#### E. Financial Guarantees

38. The fifth and final main extension scenario entails main extensions that fail to "pass" the other economic tests. In such situations, a main extension can still occur if the customer or developer provides the Company with a financial guarantee. The forms of financial guarantees include non-refundable CIAC, refundable advances, and letters of credit. The financial risk of the main extension meeting its revenue projection is thereby borne by the customer or developer, and not by the Company and, possibly, its ratepayers.

39. The Proposed Settlement requires written agreement for advances, wherein the Company agrees to refund all or part of the advance for each customer connected to the main extension for the first six years. The Proposed Settlement allows a letter of credit, which can be renewed at the Company's discretion. The Company is provided considerable discretion in the Proposed Settlement's financial guarantee's provisions. I expect that the financial guarantee provisions will be used to supplement the other applicable economic tests, that is, the financial guarantee will only apply to the difference between the amount that "failed" the test and the total amount.

40. I find acceptable the financial guarantee provisions of the Proposed Settlement. As I stated in my prior Findings and Recommendations, the use of refundable advances is preferred, in my opinion, because the Company's financing of a main extension occurs only with the actual connection of a customer, even if the connection takes longer than originally anticipated. See Findings and Recommendations, dated April 14, 1999, at 16. The Company's use of financial guarantees is prudent because otherwise it (and possibly its ratepayers) will be exposed to the business and financial risks of the developers. Developers want the Company to finance main extensions in order to lower the cost of the infrastructure to serve the developments. Moreover, the availability of gas service may benefit the developers because it may enhance a development's marketability. Thus, financial guarantees are appropriate, although developers may oppose any guarantees based on their private interests.

41. In conclusion, the Proposed Settlement is complicated in its effort to construct a compromise, but it is similar to the settlement the Commission approved for Delmarva Power & Light Company in Order No. 4635, Docket No. 97-17T, issued November 4, 1997. I find that the Proposed Settlement balances all the parties' various interests and produces a compromise that is in the public interest. The Proposed Settlement's reporting requirements will allow the Commission to monitor all IRRM main extensions, and the IRRM may be revised as appropriate. A properly devised IRRM, in my opinion, is preferable to the 6x test, which I previously found to



Corporation ("Chesapeake" or "the Company") and the other undersigned parties (all of whom together are the "Settling Parties") hereby propose a settlement of the remaining issues in these proceedings.

## I. Background

1. In response to the Motion for Clarification filed by Chesapeake in PSC Docket No. 97-72T, by Commission Order No. 4986 dated December 15, 1998, the Delaware Public Service Commission ("Commission") remanded to Hearing Examiner Robert P. Haynes (the "Hearing Examiner") two separate issues: (1) the appropriate application of the 6x net revenue test ("6x test") in the context of new residential construction projects for Chesapeake and (2) whether Chesapeake could amend its existing line extension tariff to allow for the use of both Contributions in Aid of Construction ("CIAC") or Customer Advances ("Advances") in funding line extensions. The Commission noted that the parties in Docket No. 97-72T had been unable to resolve their differences of opinion regarding the interpretation of Hearing Examiner Robert O'Brien's Findings and Recommendations:

Relating to the appropriate application of the (6x) net revenue test in the context of new construction projects; specifically, at what point in time in the future the non-fuel revenues associated with the particular construction project should be quantified for the determination of the (6x) net revenue test.

2. On April 15, 1999 the Hearing Examiner issued his Findings and Recommendations. In his report, the Hearing Examiner recommended that for new construction projects, the 6x test can include only revenues from structures that are under construction at the time the extension agreement is signed. The Hearing Examiner also recommended approval of the Company's request to have the right to obtain from a customer either a Contribution in Aid of Construction ("CIAC") or a Customer Advance.

3. Subsequent to the issuance of the April 15, 1999 Findings and Recommendations of the Hearing Examiner, the Settling Parties embarked upon extensive settlement negotiations in an effort to resolve the remaining issues in this docket. During the settlement discussions, Chesapeake expressed concern that the application of the 6x test in the context of new residential construction projects, as interpreted by the Hearing Examiner, would have an adverse impact upon the ability of Chesapeake to expand its natural gas distribution system to other Delaware residents by preventing the Company from making economic expansions, all to the detriment of existing ratepayers and future ratepayers.

4. During the negotiations, the parties recognized the difficulty of determining a precise economic test that would provide a precise measurement of the true economics of a project. In the prior proceedings relating to this issue, both the Commission Staff and DAAEP expressed concerns with respect to the potential for reverse engineering under the Company's proposed Internal Rate of Return Model ("IRRM") due to the number of variables. In addition, the Staff and the DAAEP believed the IRRM provided excessive flexibility and did not facilitate administrative ease in the review process. The parties have addressed these issues by incorporating certain pre-determined

conditions and variables into the model. Please see the attached Exhibit "B" for the predetermined variables to be used within the IRRM. In an effort to resolve the remaining issues in this docket, the Settling Parties have entered into this proposed settlement, subject to the approval of the Hearing Examiner and the Commission.

## II. Economic Test

5. The Settling Parties agree that the economic test to be used by the Company for service line and main extensions into new residential developments will be Chesapeake's Internal Rate of Return Model ("IRRM") with certain pre-determined conditions and guidelines. A copy of the IRRM framework is attached hereto as Exhibit "A". Chesapeake shall cause to be filed with the Commission Staff a confidential electronic copy of the IRRM including the predetermined conditions and guidelines.

6. In the application of the IRRM, the Company shall include certain pre-determined conditions and guidelines as defined on Exhibit "B" attached hereto and incorporated herein by reference. The attached pre-determined conditions and guidelines will be used by the Company consistently within the IRRM in the evaluation of the Company's capital extension projects related to new residential developments. The parties recognize that there may be on occasion circumstances which would require the modification of one or more of the pre-determined conditions for certain capital projects. For the following process, the modifications do not apply to routine updates for the Company's most current cost information for service installations and operations and maintenance expenses as stated on Exhibit "B". Any other type of change to the pre-determined conditions to be used within the IRRM will be submitted to the Commission Staff for its review, on an expedited basis, along with the factual basis in support of the Company's request for the modification. The Company shall also notify counsel for DAAEP and the Division of Public Advocate of any such request. The Commission Staff shall exercise its best efforts to advise the Company whether or not the Commission Staff has any objection to the proposed modification within 20 days after receipt of the request. The parties agree that while the Company may seek Staff acceptance to modify one or more of these pre-determined variables to be used within the IRRM under these guidelines, the Company shall not make any changes to the procedure followed within the IRRM to calculate the projected return without first obtaining the approval of the Commission. A similar process was approved by the Commission in Delmarva Power & Light Company's Main and Service Extension proceeding, PSC Docket 97-17T.

7. Notwithstanding the foregoing, any main extension of less than 500 feet in length to be installed in order to serve new residential subdivisions will be evaluated by the Company using the 6x net revenue test, which test shall include revenues estimated to be derived based upon the estimated number of homes to be constructed during the first year of the new residential development.

8. For existing residential developments, as opposed to new residential developments under construction, the economic test will be the 6x net revenue test. In the application of the 6x test for such developments, net revenue shall include the annual base tariff rate revenue or delivery service revenue, excluding all fuel costs or purchased gas costs, based on the

estimated number of customers who intend to convert to natural gas service during the first three months after the installation of the extension and who have signed an application for natural gas service.

9. For commercial and industrial customers, the economic test will be the 6x test based on the commercial and industrial customers estimated level of annual non-fuel revenue. The estimated annual non-fuel revenue is defined as the annual base tariff rate revenue or delivery service revenue for the commercial and industrial customer, excluding all fuel costs or purchased gas costs.

10. The Company will use the IRRM for new residential construction for a trial period of three years after the final approval of this proposed settlement by the Commission. The parties agree that the incorporation of pre-determined variables for use in the IRRM will address the concerns of the Commission Staff and the DAAEP. The use of the IRRM for an initial trial period of three years will provide the parties with an opportunity to evaluate the relative merits of the model. In an effort to monitor the results of the use of the IRRM, the Company shall submit to the Commission an annual report identifying each new residential construction project for which the IRRM was utilized during said period. This report shall be filed within 60 days after December 31 of each year.

11. Chesapeake shall require a CIAC, a Customer Advance, Letter of Credit, or another form of a financial guarantee from the appropriate party for any capital extension projects that do not generate the required level of revenue necessary to meet the economic test for the project under the IRRM or the 6x test, as applicable.

12. Attached hereto as Exhibit "C" is a copy of the proposed tariff revisions incorporating the foregoing economic tests. The Settling Parties agree that the attached tariff is just and reasonable.

### III. Standard Provisions and Reservations

13. The provisions of this proposed settlement are not severable.

14. This proposed settlement represents a compromise for the purposes of settlement and shall not be regarded as a precedent with respect to any ratemaking or any other principal in any future case or in any existing proceeding. 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 other than as specified herein, except that the Settling Parties agree that the proposed settlement, as a whole, results in a just and reasonable resolution of the issues in this docket and is in the public interest. None of the Settling Parties waive any rights that they may have to take any position regarding such issues in future proceedings, including positions contrary to positions previously taken.

15. 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 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.

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

CHESAPEAKE UTILITIES CORPORATION

BY: /s/ Michael P. McMasters

DELAWARE PUBLIC SERVICE COMMISSION  
STAFF

BY: /s/ Connie S. McDowell

DELAWARE ASSOCIATION OF ALTERNATIVE  
ENERGY PROVIDERS, INC.

BY: /s/ Glenn C. Kenton

DIVISION OF THE PUBLIC ADVOCATE

BY: /s/ Patricia A. Stowell

DAAEP consists of several suppliers of propane and fuel oil, including Burns & McBride, Inc., Tri Gas and Oil Co., Peninsula Oil Co., Boulden Oil & Propane, Inc., Shellhorn & Hill, Inc., Paradee Gas Co., Suburban Propane Company, ShagrinGas Co., Keene Compressed Gas, Inc., and MGS Corporation, Inc.

Intervenor DP&L did not participate in the remand portion of this proceeding, but its counsel informed me that it does not oppose the Proposed Settlement.

References to the exhibits will be cited as (Exh. \_\_\_ or (Exh. \_\_\_ at \_\_\_\_ ). References to the transcripts will be cited at (Tr. at \_\_\_ ).

Staff is to use its "best efforts" to raise any objection within 20 days. This is ambiguous. I would expect that Staff would notify the Company within 20 days that more time for review is needed and obtain the Company's agreement for additional time so that there is a definite date for implementation of the change or objection thereto.

DAAEP may have to sign a confidentiality agreement to review proprietary information.