

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. 00-467F
SERVICE RATES ("GSR") TO BE EFFECTIVE)
OCTOBER 1, 2000 (FILED SEPTEMBER 1, 2000))
)

ORDER NO. 5814

AND NOW, this 2nd day of October, A.D. 2001;

WHEREAS, the Commission has received and considered the Findings and Recommendations of the Hearing Examiner, dated August 24, 2001, in the above-captioned docket, which was submitted after a duly noticed public evidentiary hearing;

AND WHEREAS, the Hearing Examiner recommends that the September 1, 2000 filing and the January 18, 2001 filing of Chesapeake Utilities Corporation be approved as filed, and determined to be just and reasonable; 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 August 24, 2001 Findings and Recommendations of the Hearing Examiner, appended to the original hereof as Attachment "A".

2. That Chesapeake Utilities Corporation shall file such tariff sheets as may be needed consistent with this Order.

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:

Chair

/s/ Joshua M. Twilley
Vice Chair

/s/ Donald J. Puglisi
Commissioner

/s/ Jaymes

B. Lester
Commissioner

—
/s/ Joann T. Conaway
Commissioner

ATTEST:

/s/ Karen J. Nickerson
Secretary

ATTACHMENT "A"

BEFORE THE PUBLIC SERVICE COMMISSION

OF THE STATE OF DELAWARE

**IN THE MATTER OF THE APPLICATION))))))
OF CHESAPEAKE UTILITIES
CORPORATION FOR APPROVAL OF A
CHANGE IN ITS GAS SALES SERVICE
RATES ("GSR") TO BE EFFECTIVE
OCTOBER 1, 2000 (FILED SEPTEMBER 1,
2000)**

PSC DOCKET NO. 00-467F

FINDINGS AND RECOMMENDATIONS OF THE HEARING EXAMINER

DATED: August 24, 2001

**ROBERT P. HAYNES
HEARING EXAMINER**

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BEFORE THE PUBLIC SERVICE COMMISSION

OF THE STATE OF DELAWARE

**IN THE MATTER OF THE)))))))
APPLICATION OF CHESAPEAKE
UTILITIES CORPORATION FOR
APPROVAL OF A CHANGE IN ITS GAS
SALES SERVICE RATES ("GSR") TO BE
EFFECTIVE OCTOBER 1, 2000 (FILED
SEPTEMBER 1, 2000)**

PSC Docket No. 00-467F

FINDINGS AND RECOMMENDATIONS OF THE HEARING EXAMINER

Robert P. Haynes, duly appointed Hearing Examiner in this Docket pursuant to 26 Del. C. §502 and 29 Del. C. Ch. 101, by Commission Order Nos. 5547 and 5651, dated September 13, 2000 and January 30, 2001, respectively, reports to the Commission as follows:

I. APPEARANCES

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

SCHMITTINGER & RODRIGUEZ, P.A.,
BY: WILLIAM A. DENMAN, ESQUIRE

On behalf of the Staff of the Public Service Commission ("Staff"):
MURPHY, SPADARO & LANDON,
BY: FRANCIS J. MURPHY, ESQUIRE

II. PROCEDURAL HISTORY

3. On September 1, 2000, Chesapeake applied to the Public Service Commission of the State of Delaware (“Commission”) for approval of changes in its Gas Sales Service Rates (“GSR”) and its Firm Balancing Rate to be effective for service rendered on and after October 1, 2000.

4. In Order No. 5547, issued September 13, 2000, the Commission allowed the proposed changes to go into effect, on a temporary basis and subject to refund, for service on and after October 1, 2000. Order No 5547 also opened this investigation, and designated this Hearing Examiner to conduct an evidentiary hearing to develop the record of such review and, thereafter, to prepare proposed findings and recommendations for the Commission’s consideration.

5. On January 18, 2001, the Company filed an out of cycle adjustment to increase its GSR factors effective February 1, 2001. Chesapeake’s filing also sought a waiver of its tariff’s provision that established a 6% limit on its under-recovery balance. The waiver request was based on the development of a large under collection balance, projected to be 22%, which would result in a even larger increase if reduced to the tariff’s limit. The Company’s filing sought to carry a 14% under collection balance into its GSR filing to be made in September 2001 and to eliminate the filing of a GSR change in March 2001 to go into effect April 1, 2001.

6. Pursuant to 26 Del. C. §§ 304 and 306, the Commission, in Order No. 5651 dated January 30, 2001, permitted the proposed rate changes in the January 18, 2001 application to go into effect on February 1, 2001 on a temporary basis, subject to further investigation and refund, if any. Order No. 5651 consolidated the January 18, 2001 filing with the Company’s pending application filed September 1, 2000 that already was before this Hearing Examiner. The Commission also granted the Company’s requested waiver of its tariff provisions to allow the Company to maintain an under collection balance in excess of 6%, and to avoid a further GSR change on April 1, 2001.

7. Staff filed prepared direct testimony on the September 1, 2000 filing and supplemental direct testimony on the January 18, 2001 filing.

8. Notices of the applications and the public hearing were published. ^[1]

9. No person sought to intervene or otherwise participate in this proceeding.

10. An evening public hearing was held in the Commission’s Dover offices, and representatives of Staff and the Company appeared. No member of the public appeared or submitted any written comments.

11. At the hearing a record was developed, consisting of fifteen pages of verbatim transcripts, ^[2] and eight exhibits, including the pre-filed testimony of the Company and Staff witnesses. Insofar as there were no issues in dispute, no post-hearing briefs were necessary.

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

III. SUMMARY OF THE EVIDENCE

A. Company's Direct Testimony on the September Filing

13. The Company presented the direct testimony and exhibits of Jeffrey R. Tietbohl, Director of Regulatory Affairs, who testified in support of the Company's claimed gas costs in the September 1, 2000 filing. Ex. 4. Mr. Tietbohl explained that the Company's claimed costs represented an increase of \$6,193,863 from the last approved rates due to projected higher variable costs, which he asserted were largely due to the rising energy prices experienced nationwide. Ex. 4 at 5-6. Part of the increase was due to the under collection balance of \$1,002,410, and part was due to \$424,448 in additional fixed costs incurred from the increase in transportation capacity on Eastern Shore Natural Gas Company ("ESNG").

14. Mr. Tietbohl also explained how the three different GSR factors were developed for the different rate schedules, which were based on their customer classes' differing load factors. Ex. 4 at 6-10.

15. Company witness Tietbohl testified to the shared margin credit, which was applied to reduce costs to be recovered from GSR customers. Ex. 4 at 10-12. This credit is attributable to the shared margin from off-system and interruptible sales previously approved in Docket No. 95-73 (Phase II), as modified by the settlement approved in Docket No. 98-407. Ex. 4 at 7-8.

16. Mr. Tietbohl described the credit for the projected capacity release on the ESNG pipeline system, which the Company estimated will reduce by \$242,968 the costs to be recovered from GSR customers. Ex. 4 at 13-14.

17. Mr. Tietbohl indicated that there were eight firm transportation customers, and that no change in this number was projected, and he estimated that the Company would transport 315,184 Mcf on behalf of these customers. Ex. 4 at 17.

18. Mr. Tietbohl explained the sales forecasts, the cycle billing adjustment, the Company use, and the unaccounted-for-gas ("UFG") claims. Ex. 4 at 15-19.

19. Mr. Tietbohl also described the impact of the proposed GSR on a typical residential customer using 842 Ccf a year would be an increase of 22%, or \$192 a year. Ex. 4 at 24. During the heating season, he stated that a typical residential customer's bill for 120 Ccf in a month would increase by 25%, or \$27 a month, as a result of the proposed GSR.

20. The projected average gas cost in the filing is \$7.1746 per Mcf, or an increase of \$1.1411 per Mcf over the amount previously approved. Ex. 4 at 21.

21. The Company also proposed changing the balancing rate for Rate Schedule LVS, as explained by Mr. Tietbohl. Ex. 4 at 24-28.

22. The Company also presented the direct testimony of C. James Moore, Director of Gas Supply and Transportation Services, to address the gas procurement and open access issues that the Commission had requested be addressed in Order No. 4767, issued April 14, 1998, in Docket No. 97-294F. Ex. 2 at 2. Mr. Moore explained the gas procurement efforts undertaken since 1999 whereby the Company first executed contracts with three suppliers for the 1999-2000 winter season, and then relied on spot market purchases during the non-winter season.

23. Mr. Moore also described the Company's arrangement with its "Strategic Alliance Partner," in which the Company relies on this partner's expertise in managing the Company's pipeline capacity, including scheduling, nominating, balancing, accounting, billing, and day trading in the open access transportation market. Any excess value that the Company receives from the alliance partner's services is credited to the GSR. Ex. 2 at 5.

24. Mr. Moore also stated his opinion on the causes of the increasing gas prices experienced nationally, which he attributed to lower wellhead production, lower than normal storage inventory levels, and an increased demand for gas. Ex. 2 at 7-8. He testified to the Company's efforts to moderate the increase through a mix of pricing mechanisms with its suppliers, including locking in future prices to avoid sudden upswings in prices during peak periods. Ex. 2 at 10.

25. Mr. Moore testified on the 2,865 dekatherm increase in the daily transportation capacity on ESNG, which he said was needed to serve the peak day requirements. Ex. 2 at 11.

26. Finally, Mr. Moore addressed the transportation service available to approximately 100 commercial and industrial customers. Ex. 2 at 12-14. He indicated that ESNG capacity would be released to serve transportation customers, but that no capacity on the pipelines upstream of ESNG had been released due to the constraints on those pipelines. Ex. 2 at 13.

B. Company's Supplemental Direct Testimony on the January Filing

27. The Company's supplemental direct case was presented in support of its out of cycle filing made January 18, 2001 for GSR changes to go into effect on February 1, 2001. Mr. Tietbohl testified that the filing was required under its tariff because the under collection was estimated to be 23%, or well in excess of the tariff's 6% limit. Ex. 5 at 2. Even with the out of cycle filing, the Company still estimated an under collection of 14%, and consequently had sought from the Commission a waiver of the tariff to allow it to carry the under collection balance in excess of 6% until the GSR filing to be made in September 2001. Ex. 5 at 3-5.

28. Mr. Tietbohl proceeded to explain the supplemental filing's increase of \$7,107,899 since the September filing, which he attributed to the continued increase in gas commodity prices. Ex. 5 at 5-6. With the January filing, the

Company's average cost of gas will increase to \$9.3124 per Mcf, or a \$2.1378 per Mcf increase. Ex. 5 at 14.

29. The supplemental testimony described the filing's impact on a typical residential customer as a 17% increase, or \$14 a month, and an 18%, or \$24 a month, increase during the heating months. Ex. 5 at 15

30. Mr. Moore also presented supplemental testimony on the recent changes that occurred since his testimony that was submitted with the September 2000 filing. Ex. 3. He indicated that the Company had entered into an agreement with a new alliance partner. This partner will provide the Company with additional baseload and spot supplies. Ex. 3 at 2.

31. Mr. Moore also explained that the surge in gas prices was the result of colder than normal weather and its resulting increased demand for gas usage, and lower storage levels nationally at the beginning of the winter season. Ex. 3 at 3.

C. Staff's Direct and Supplemental Direct Testimony

32. Staff presented its direct case through the direct testimony and schedules of Funmi I. Jegede, Public Utilities Analyst. Ex. 5, Ex. 6A, Ex. 7. Ms. Jegede testified to her review of the Company's application, and concluded with her recommendation that the GSR factors that went into effect on October 1, 2000 be approved as filed.

33. Ms. Jegede noted that the Company was in the process of changing its alliance partner, but that the Company's commitment to open access will continue with the new partner. Ex. 6 at 6.

34. She also stated that the new balancing rate was consistent with how it was supposed to be calculated, and that the Company had complied with all outstanding issues raised in prior Commission orders, including the submission of its long-term plan. Ex. 6 at 8-9. Staff witness Jegede also noted that Staff had reviewed an audit report on the Company's margin sharing, which resulted in a minor correction. Ex. 6 at 10.

35. Ms. Jegede also sponsored Staff's memorandum from Malak Michael, Administrative Engineer, on his review of the Company's long-term plan, including Staff's favorable assessment of the plan and the Company's new gas supply forecasting model. Ex. 6A.

36. Staff witness Jegede submitted supplemental testimony on her review of the Company's out of cycle filing, which she found to be consistent with current gas cost projections. She further concluded that it was appropriate to continue an under collection in excess of the tariff's 6% requirement in light of the significant increases already experienced by the Company's customers. Ms. Jegede also testified that the collection of a 9.25% interest rate on the under collection balance may adversely affect the ratepayers. Ex. 7 at 4.

37. She also noted that the Company had sent out a letter to its customers on the increases, and included in the letters local sources of financial assistance for customers who experienced problems paying the increase. Ex. 7 at 8. Ms. Jegede noted that the combination of the September and January filings resulted in an increase of \$50.82 per

month, or 46.84%, for a typical residential heating customer during the winter, an annual increase of \$356.59, or 42.88%.

IV. DISCUSSION

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

39. There are no disputed issues in this proceeding. The parties have presented substantial record evidence that supports the approval of the GSR levels and balancing rate that have been in effect on a temporary basis since October 1, 2000 and February 1, 2001.

40. The evidence shows that the Company's projections of gas costs are the result of its efforts to acquire the least cost gas supplies consistent with its obligation to provide reliable service. The Company uses its available storage to purchase lower cost gas in the summer for delivery in the winter when gas prices are traditionally higher. The Company further uses a variety of pricing mechanisms with its suppliers to avoid sudden changes in prices. The Company also retained the services of an alliance partner to maximize the usage of its pipeline capacity in order to minimize costs. These efforts are consistent with reasonable efforts to control gas prices, which nevertheless have increased dramatically as part of a national upward trend in energy prices that began in the fall of 2000.

41. The under collection balance issue is troubling because it is merely the result of a delay between the market's gas price changes and the reflection of such changes in the GSR. As Staff noted, an under collection balance imposes an additional cost on consumers because of the interest added to the balance. The consumers, however, do not cause the under collection. Ms. Jegede stated that the interest rate on the under collection balance is variable, and that it was at 9.25% at the time of her testimony based upon an interest rate developed by the Federal Energy Regulatory Commission. The Commission may want to examine the interest rate used to calculate under collections in the future to the extent it exceeds the Company's cost of short-term capital. Another possible solution to this issue would be to permit more frequent changes in the GSR in order to more accurately track market conditions.

42. The record shows that the Company provided its customers with an explanation of the reasons for the increase. See Ex. 7, Exhibit A. This communication may have succeeded in avoiding any customer opposition to the filings' sizable increases, which together increased a typical heating customer's annual bill by approximately 44%. The letter also directed customers with financial hardship to local sources of possible assistance, and provided ways to conserve energy usage. It is apparent from the lack of any public participation or comment that the Company's customers recognized that the increases were part of a widely publicized increase in national energy prices in general.

43. In conclusion, I recommend that the Company's filings of September 1, 2000 and January 18, 2001 be approved as filed, and that the temporary rates that went into effect on October 1, 2000 and February 1, 2001 be allowed to remain in effect as just and reasonable rates until changed by the Commission.

V. RECOMMENDATIONS

44. For the reasons stated above, I propose and recommend to the Commission the following:

A. That the Company's Gas Sales Rate factors and balancing rate, as filed September 1, 2000, be approved as just and reasonable rates effective for service on and after October 1, 2000 until changed by the Commission. The rates are set forth below:

- 1) Gas Sales Service Rate of \$0.717 per Ccf for rate schedules RS, GS, MVS, and LVS;
- 2) Gas Sales Service Rate of \$0.532 per Ccf for rate schedules GLR, GLO, GCR, and GCO;
- 3) Gas Sales Service Rate of \$0.646 per Ccf for rate schedules HLFS and SFS; and
- 4) Firm balancing rate of \$0.058 per Ccf for rate schedule LVS transportation service.

B. That the Company's Gas Sales Rate factors, as filed January 18, 2001, be approved as just and reasonable rates effective for service on and after February 1, 2001 until changed by the Commission. The rates are set forth below:

- 1) Gas Sales Service Rate of \$0.918 per Ccf for rate schedules RS, GS, MVS, and LVS;
- 2) Gas Sales Service Rate of \$0.756 per Ccf for rate schedules GLR, GLO, GCR, and GCO; and
- 3) Gas Sales Service Rate of \$0.860 per Ccf for rate schedules HLFS and SFS.

45. A proposed order to implement the foregoing recommendations, if adopted by the Commission, is attached hereto as Appendix A for the Commission's convenience.

Respectfully submitted,

/s/ Robert P. Haynes
Robert P. Haynes
Hearing Examiner

[1] The affidavits of publication in the Delaware State News and the News Journal are included in the record as Exhibit 1. Exhibits will be cited as “Ex.____” and references to the hearing transcripts will be cited as “Tr.____.”

[2] Due to the absence of a court reporter, the hearing was recorded on an audio tape, which later was transcribed by a Commission employee.