BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF DELAWARE

IN THE MATTER OF THE APPLICATION	**)**	
OF CHESAPEAKE UTILITIES	**)**	
CORPORATION REGARDING ITS	**)**	
ACQUISITION AND CONVERSION	**)**	**PSC Docket No. 18-0933**
OF PROPANE COMMUNITY GAS	**)**	
SYSTEMS	**)**	
(Filed June 29, 2018)	**)**	

PETITION OF THE DELAWARE ASSOCIATION OF ALTERNATIVE ENERGY PROVIDERS, THE MID-ATLANTIC PROPANE GAS ASSOCIATION, AND THE MID-ATLANTIC PETROLEUM DISTRIBUTORS ASSOCIATION FOR LEAVE TO INTERVENE

CORRECTED

EXHIBIT A TO FILING ITEM # 24

/s/ Francis J. Murphy
Francis J. Murphy, Esq. DE Bar ID #223
1011 Centre Road, Suite 210
Wilmington, DE 19805
Telephone: (302) 472-8100
Email: fmurphy@msllaw.com
Attorneys for Petitioners
Delaware Association of Alternative Entergy Providers; Mid-Atlantic Propane Gas Association; and Mid-Atlantic Petroleum Distributors Association

BEFORE THE PUBLIC SERVICE COMMISSION

OF THE STATE OF DELAWARE

IN THE MATTER OF THE APPLICATION OF CHESAPEAKE UTILITIES CORPORATION FOR A GENERAL INCREASE IN ITS NATURAL GAS RATES AND FOR APPROVAL OF CERTAIN OTHER CHANGES TO ITS NATURAL GAS TARIFF (FILED DECEMBER 21, 2015)	)	PSC Docket No. 15-1734

ORDER NO. 8878

I. PROCEDURAL BACKGROUND

1. December 21, 2015, Chesapeake Utilities Corporation ("CUC") filed an Application with the Commission for a general increase in its natural gas rates and for approval of certain changes to its tariff regarding natural gas.

2. On January 19, 2016, the Commission adopted Order No. 8848, which opened this docket, appointed a Hearing Examiner, directed the publication of notice of the filing, and set a deadline of February 26, 2016 for the filing of any petitions for leave to intervene.

3. On February 25, 2016, the Delaware Association of Alternative Energy Providers, Inc. ("DAAEP") filed a Petition for Leave to Intervene.

4. On March 4, 2016, CUC filed a brief opposing DAAEP's Petition.

5. On March 9, 2016, DAAEP filed a Reply in support of its Petition.

6. On March 11, 2016, the Hearing Examiner assigned to this docket issued Order No. 8860, which granted DAAEP's Petition for Leave to Intervene.

7. On March 16, 2016, CUC filed with the Commission a Petition for Interlocutory Appeal of Order No. 8860.

8. On March 21, 2016, DAAEP filed an Answer to CUC's Petition for Interlocutory Appeal.

9. On April 5, 2016, the Commission met at its regularly-scheduled meeting to consider the CUC's Petition for Interlocutory Appeal and DAAEP's Answer and to hear oral argument from the parties. After deliberations, the Commission denied CUC's Petition, thus allowing Order No. 8860 to stand. This Order explains the Commission's findings and decision.

II. APPLICABLE LAW

10. Any person seeking to intervene in a proceeding, other than an original party to a proceeding or a party entitled to participate as a matter of right, must file a petition to intervene stating "why the petitioner's interest will not be adequately represented by the parties to the proceeding or why participation in the proceeding would be in the public interest." 26 *Del. Admin. C.* § 1001-2.9.1.

11. The Commission may delegate to the designated Hearing Examiner the authority to grant or deny a party's petition for leave to intervene, subject to an interlocutory appeal pursuant to 26 *Del. Admin. C.* § 1001-2.16. 26 *Del. Admin. C.* § 1001-2.9.3.

12. Interlocutory appeals from rulings of a Hearing Examiner during the course of a proceeding may be taken to the full Commission by any party only where extraordinary circumstances necessitate a prompt decision by the Commission to prevent substantial injustice or detriment to the public interest. 26 *Del. Admin. C.* § 1001-2.16.1.

The Commission shall determine if the Petition and any answers thereto justify interlocutory review, and if no Commission action occurs within thirty days of the Petition filing, then it shall be deemed denied by operation of law. 26 *Del. Admin. C.* § 1001-2.16.5.

III. CUC's PETITION FOR INTERLOCUTORY APPEAL & ARGUMENT

13. CUC argued in its Petition and at oral argument before the Commission that intervenor status should not be granted to DAAEP for the following reasons:

a. Despite the fact that DAAEP has been allowed to intervene in similar prior dockets and that the Commission has historically exercised a liberal intervention policy, DAAEP has failed to meet the requirements to intervene (Hearing Tr. 21:1-23).

b. Other state utility commissions in Maryland, New Jersey, Pennsylvania, and other states have denied similar intervention requests by unregulated propane and oil dealers seeking to protect their competitive interests, on grounds that those commissions lack the statutory authority to protect such interests (Hearing Tr. 14:14-15:5), except where state law specifically authorizes such intervention (Hearing Tr. 22:20-24:4).

c. Staff and the Delaware Division of the Public Advocate ("DPA") will better represent the interests of CUC's customers with respect to any proposed rate increased or tariff changes (Hearing Tr. 16:15-18).

d. DAAEP seeks to represent the competitive interests of its member companies by limiting natural gas expansion, which is contrary to the "public interest" and therefore contrary to 26 *Del. Admin. C.* § 1001-2.9.1 (Hearing Tr. 14:14-15:5); the Commission is not authorized to consider or protect the competitive interests of DAAEP in setting the rates of a regulated utility (Hearing Tr. 16:23-17:17).

e. DAAEP's status as an intervenor and a signatory to settlement agreements in prior CUC rate case dockets is irrelevant (CUC Petition for Interlocutory Appeal ¶¶ 8-9).

IV. DAAEP's ANSWER & ARGUMENT

14. DAAEP responded in its Answer and at oral argument before the Commission that it should be granted status as an intervenor for the following reasons:

a. Developing a robust evidentiary record in this proceeding that includes the unique industry perspective of DAAEP is in the public interest (Hearing Tr. 31:14-20).

b. The Commission has historically employed a liberal policy for considering intervention petitions, including granting similar requests by DAAEP in prior CUC rate cases (Hearing Tr. 34:5-19).

c. Because DAAEP is a signatory to settlement agreements in prior proceedings that may be modified in the instant case, it should be allowed to intervene to protect its interests (Hearing Tr. 38:14-39:9).

d. DAAEP has access to relevant information regarding market conditions that Staff and the DPA will not be able to access easily unless DAAEP is allowed to intervene (Hearing Tr. 39:18-40:12).

V. POSITIONS OF OTHER PARTIES

15. Staff represented at oral argument that it was not taking a position on CUC's Petition (Hearing Tr. 41:1-2).

16. The Delaware Division of the Public Advocate ("DPA") noted at oral argument that the presence of intervenors in a docket can increase the costs billed to consumers, but it also prefers to have broad public participation (Hearing Tr. 41:11-24). The question the Commission must answer in deciding whether or not to grant CUC's Petition is whether Staff and the DPA are capable of representing the interests of DAAEP (Hearing Tr. 42:3-11).

17. Delmarva Power & Light Company, which was granted status as an Intervenor on March 1, 2016 by Order No. 8857, did not participate

in oral argument. The Federal Executive Agencies, which was granted status as an Intervenor on April 20, 2016 by Order No. 8882, did not participate.

VI. DELIBERATION AND DECISION

18. As acknowledged by both CUC and DAAEP, the Commission has historically employed a liberal policy for granting intervention petitions (Hearing Tr. 58:19-22; 60:1-4), and we are not persuaded to depart from that policy here. DAAEP, as it has in prior similar proceedings, has represented that it will bring its unique industry perspective and additional information to this docket in a way that will not be adequately represented by the other parties (Hearing Tr. 60:11-17).

19. Any potential increased cost to CUC customers caused by an intervenor should not be a factor in the Commission's decision (Hearing Tr. 60:18-22), but to the extent there are increased costs, the efficiency and value of building a more robust evidentiary record outweighs that cost (Hearing Tr. 51:6-52:16).

20. Furthermore, it does not appear that protecting the confidentiality of information exchanged during discovery would be a concern if DAAEP is allowed to intervene, as DAAEP stated that this has not been an issue in prior proceedings (Hearing Tr. 40:13-17).

VI. ORDER

AND NOW, this 17th day of May, 2016, it is hereby ordered that:

21. For the reasons stated herein, CUC's Petition for Interlocutory Appeal of Order No. 8860 is DENIED, and as such, Order

No. 8860, in which the Hearing Examiner assigned to this docket granted DAAEP's Petition for Leave to Intervene, stands (by a 4-1 vote of the Commission, with Chairman Winslow and Commissioners Karia, Conaway, and Gray voting in favor and Commissioner Drexler voting against).

22. The Commission reserves jurisdiction and authority to enter such further orders as may be deemed necessary or proper.

BY ORDER OF THE COMMISSION:

Chair.

Commissioner

Commissioner

Commissioner

Commissioner

ATTEST:

Secretary