

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Investigation of 1994) DOCKET NO. 950016-GU
earnings of FLORIDA DIVISION OF) ORDER NO. PSC-95-0160-FOF-GU
CHESAPEAKE UTILITIES) ISSUED: February 6, 1995
CORPORATION.)
_____)

The following Commissioners participated in the disposition of this matter:

SUSAN F. CLARK, Chairman
J. TERRY DEASON
JOE GARCIA
JULIA L. JOHNSON
DIANE K. KIESLING

NOTICE OF PROPOSED AGENCY ACTION
ORDER GRANTING CHESAPEAKE'S CAPPING OF
ITS EARNINGS FOR 1994 AND 1995

BY THE COMMISSION:

NOTICE IS HEREBY GIVEN by the Florida Public Service Commission that the action discussed herein is preliminary in nature and will become final unless a person whose interests are substantially affected files a petition for a formal proceeding, pursuant to Rule 25-22.029, Florida Administrative Code.

The Florida Division of Chesapeake Utilities Corporation (Chesapeake) is a local gas distributor that serves approximately 8,000 residential, commercial, and industrial customers in Winter Haven, Plant City, and surrounding areas.

As a result of our continuing earnings surveillance program, we were made aware of the high level of Chesapeake's earnings. The achieved return on equity (ROE) for the year ended August 31, 1994 was 12.27%. The achieved ROE for the year ended September 30, 1994 increased to 12.83%. These reported returns exceeded the maximum ROE of 12.00% authorized in Order No. PSC-93-1772-FOF-GU, effective January 1, 1994. The previously authorized maximum ROE was 13.00%.

Based on the reported ROE's, our staff contacted Chesapeake and requested that the Company agree to an earnings cap for 1994 to resolve the matter concerning any potential overearnings. As a result, Chesapeake submitted a proposal, dated December 21, 1994, to cap both its 1994 and 1995 earnings (Attachment).

DOCUMENT NUMBER-DATE

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FPSC-RECORDS/REPORTING

Chesapeake's proposal to cap its earnings for 1994 and 1995 adequately resolves our concerns regarding any potential excess earnings and their disposition. The proposal outlined in the attachment is relatively self-explanatory, so our discussion is limited to commenting on several specific areas.

Item 2 of the proposal allows the maximum ROE for 1995 to be adjusted to reflect more current economic conditions at that time. This adjustment could result in either an increase or a decrease in the 12.00% maximum authorized ROE. Since an adjusted ROE has already been established for 1995, Item 3 simply defers any revision of the authorized ROE made in the MMFR docket until 1996. It should also be noted that the correct docket number for the MMFR docket is 940818-GU, not the 940810-GU cited in the proposal.

Item 6 allows Chesapeake to offset any potential 1994 excess earnings against anticipated increases in major expense areas in 1995 by commingling any excess earnings from 1994 with 1995 earnings. Item 7 permits Chesapeake to retroactively resume its \$71,114 annual accrual to its environmental clean-up reserve which it ceased in June 1994. Because Chesapeake is still in the process of evaluating the extent and cost of the environmental clean-up of a former gas manufacturing site, it faces a potentially significant expense for this item.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that we accept Chesapeake's proposal regarding the capping of its earnings for calendar years 1994 and 1995, as discussed in the body of the Order above. It is further

ORDERED that this Order shall become final and this docket shall be closed unless an appropriate petition for formal proceedings is received by the Division of Records and Reporting, 101 East Gaines Street, Tallahassee, Florida 32399-0870, by the close of business on the date indicated in the Notice of Further Proceedings or Judicial Review. It is further

ORDERED that in the event this Order becomes final, this docket should be closed.

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By ORDER of the Florida Public Service Commission, this 6th
day of February, 1995.

Blanca S. Bayó

BLANCA S. BAYÓ, Director
Division of Records and Reporting

(S E A L)

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NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.59(4), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

The action proposed herein is preliminary in nature and will not become effective or final, except as provided by Rule 25-22.029, Florida Administrative Code. Any person whose substantial interests are affected by the action proposed by this order may file a petition for a formal proceeding, as provided by Rule 25-22.029(4), Florida Administrative Code, in the form provided by Rule 25-22.036(7)(a) and (f), Florida Administrative Code. This petition must be received by the Director, Division of Records and Reporting, 101 East Gaines Street, Tallahassee, Florida 32399-0870, by the close of business on February 27, 1995.

In the absence of such a petition, this order shall become effective on the day subsequent to the above date as provided by Rule 25-22.029(6), Florida Administrative Code.

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Any objection or protest filed in this docket before the issuance date of this order is considered abandoned unless it satisfies the foregoing conditions and is renewed within the specified protest period.

If this order becomes final and effective on the date described above, any party substantially affected may request judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or by the First District Court of Appeal in the case of a water or wastewater utility by filing a notice of appeal with the Director, Division of Records and Reporting and filing a copy of the notice of appeal and the filing fee with the appropriate court. This filing must be completed within thirty (30) days of the effective date of this order, pursuant to Rule 9.110, Florida Rules of Appellate Procedure. The notice of appeal must be in the form specified in Rule 9.900(a), Florida Rules of Appellate Procedure.



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Winter Haven, Florida 33881
(813) 293-2125
Fax (813) 294-3895

Florida Division
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Winter Haven, Florida 33882
(813) 293-2125

Plant City Natural Gas Company
1514 N. Alexander St., Suite 107
Plant City, Florida 33506
(813) 752-1363
Fax (813) 754-6183

December 21, 1994

Mr. Timothy J. Devlin, Director
Division of Auditing and Financial Analysis
Florida Public Service Commission
Fletcher Building
101 East Gaines Street
Tallahassee, Florida 32399-0850

HAND DELIVERY

Dear Mr. Devlin:

In response to your December 1, 1994 letter and the concerns expressed by the Staff at our December 14, 1994 meeting, the Florida Division of Chesapeake Utilities Corporation (CUC) proposes the following to dispose of any potential excess earnings for calendar year 1994 and calendar year 1995.

1. 1994 Earnings Cap. CUC agrees to an earnings cap of a 12.00% return on equity (ROE) for calendar year 1994. The 12.00% ROE is the maximum of the range authorized for CUC by the FPSC, effective January 1, 1994, pursuant to Order No. PSC-93-1772-FOF-GU.
2. 1995 Earnings Cap. CUC agrees to an earnings cap for calendar year 1995 to be calculated as follows: 12.00% ROE plus or minus the result of subtracting the average yield of 30-year U.S. Treasury bonds for the period of October, November and December, 1994 from the average yield of 30-year U.S. Treasury bonds for October, November and December, 1995. The average yield for each three-month period will be determined by averaging the applicable monthly averages as reported in the Moody's Bond Survey. In addition, the upward or downward adjustment resulting from such average bond yield information, for purposes of calculating a 1995 earnings cap, shall not exceed 50 basis points.
3. Change in ROE from MMFR docket. Chesapeake further proposes that any change in the authorized ROE resulting from the MMFR review in Docket No. 940810-GU will not become effective until ^{January 27, 1996} ~~January 1, 1996~~.

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4. Calculation of Achieved ROE. Chesapeake agrees that its achieved ROE will be the "FPSC Adjusted Basis" return, including flex rate revenues, as reported on its December Earnings Surveillance Report for 1994 and 1995. The calculations of ROE will use the same adjustments approved in CUC's last full rate case and will also recognize the adjustments made in the last earnings review of CUC in Docket No. 920729-GU. Because actual data will be considered, no annualized or pro forma adjustments will be made. The earnings surveillance reports and the disposition of any excess earnings are subject to audit by the FPSC Staff.
5. Disposition of Excess Earnings. Any earnings in excess of the 1995 earnings cap will be disposed of by the direction of the FPSC. In lieu of refund, any 1994 earnings achieved by CUC in excess of a 12.00% ROE will be deferred to 1995, and commingled with 1995 earnings before the FPSC determines the appropriate disposition of any excess earnings. The amount of 1994 and 1995 overearnings, if any, will be determined through the Proposed Agency Action process.
6. Offsets to Excess 1994 Earnings. Any earnings in excess of the 1994 earnings cap that are achieved by CUC will be offset by prudent and reasonable expenses pertaining (but not limited) to CUC's feasibility study for environmental cleanup of a gas manufacturing site and remediation of such site; intervention and participation by CUC in a 1995 rate case by Florida Gas Transmission before the Federal Energy Regulatory Commission; and intervention and participation by CUC in 1995 in various generic dockets pertaining to gas regulation before the FPSC.
7. Resumption of Environmental Clean-up Accrual. CUC will resume its \$71,114 annual accrual to its environmental clean-up reserve, retroactive to June, 1994.

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ATTACHMENT

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Please contact Anne Wood at (813)299-2883 or me at (813)299-2565 if
you require additional information.

Sincerely,



Stephen C. Thompson
Vice President
Florida Regional Manager
Chesapeake Utilities Corporation

pm

cc: Beth Salak
Dale Mailhot
John Slemkewicz
Anne Wood
Philip Barefoot
John R. Schimkaitis
Wayne L. Schiefelbein