

CHESAPEAKE UTILITIES CORP

FORM S-3/A

(Securities Registration Statement (simplified form))

Filed 01/10/12

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Sector	Utilities
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**UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549**

FORM S-3

**Amendment No. 2
REGISTRATION STATEMENT
UNDER
THE SECURITIES ACT OF 1933**

CHESAPEAKE UTILITIES CORPORATION
(EXACT NAME OF REGISTRANT AS SPECIFIED IN ITS CHARTER)

Delaware
(STATE OR OTHER JURISDICTION
OF INCORPORATION OR ORGANIZATION)

51-0064146
(I.R.S. EMPLOYER
IDENTIFICATION NUMBER)

**909 SILVER LAKE BOULEVARD
DOVER, DELAWARE 19904
(302) 734-6799**

(ADDRESS, INCLUDING ZIP CODE, AND TELEPHONE NUMBER, INCLUDING AREA CODE, OF REGISTRANT'S PRINCIPAL EXECUTIVE OFFICES)

**BETH W. COOPER
SENIOR VICE PRESIDENT AND CHIEF FINANCIAL OFFICER
CHESAPEAKE UTILITIES CORPORATION
909 SILVER LAKE BOULEVARD
DOVER, DELAWARE 19904
(302) 734-6799**

(NAME, ADDRESS, INCLUDING ZIP CODE, AND TELEPHONE NUMBER OF AGENT FOR SERVICE)

APPROXIMATE DATE OF COMMENCEMENT OF PROPOSED SALE TO PUBLIC: Sales are expected to take place from time to time after this Registration Statement becomes effective.

If the only securities being registered on the Form are being offered pursuant to dividend or interest reinvestment plans, please check the following box.

If any of the securities being registered on this Form are to be offered on a delayed or continuous basis pursuant to Rule 415 under the Securities Act of 1933, other than securities offered only in connection with dividend or interest reinvestment plans, please check the following box.

If this Form is filed to register additional securities for an offering pursuant to Rule 462(b) under the Securities Act, please check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering.

If this Form is a post-effective amendment filed pursuant to Rule 462(c) under the Securities Act, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering.

If this Form is a registration statement pursuant to General Instruction I.D. or a post-effective amendment thereto that shall become effective upon filing with the Commission pursuant to Rule 462(e) under the Securities Act, check the following box.

If this Form is a post-effective amendment to a registration statement filed pursuant to General Instruction I.D. filed to register additional securities or additional classes of securities pursuant to Rule 413(b) under the Securities Act, check the following box.

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, or a smaller reporting company. See the definitions of "large accelerated filer," "accelerated filer" and "smaller reporting company" in Rule 12b-2 of the Exchange Act. (Check one):

Large accelerated filer

Accelerated filer

Non-accelerated filer (Do not check if a smaller reporting company)

Smaller reporting company

The registrant hereby amends this registration statement on such date or dates as may be necessary to delay its effective date until the registrant shall file a further amendment which specifically states that this registration statement shall thereafter become effective in accordance with Section 8(a) of the Securities Act or until the registration statement shall become effective on such date as the Securities and Exchange Commission, acting pursuant to said Section 8(a), may determine.

EXPLANATORY NOTE

This Amendment No. 2 to the Registration Statement on Form S-3/A (File No. 333-178678) of Chesapeake Utilities Corporation is being filed for the purpose of filing an amended Exhibit 5. This Amendment No. 2 does not modify any provision of the preliminary prospectus contained in Part I of the Registration Statement.

PART II

INFORMATION NOT REQUIRED IN THE PROSPECTUS

ITEM 14. OTHER EXPENSES OF ISSUANCE AND DISTRIBUTION.

The estimated expenses of Chesapeake in connection with the issuance and distribution of the securities being registered hereunder are as follows:

Registration fee	\$ 2,700
Printing expenses	3,600
Transfer Agent and Registrar fees	3,200
Accounting fees and expenses	10,000
Legal fees and expenses	4,200
Total	\$23,700

ITEM 15. INDEMNIFICATION OF DIRECTORS AND OFFICERS.

Section 145 of the General Corporation Law of the State of Delaware authorizes indemnification of directors and officers under certain circumstances and subject to certain limitations. Article IX of our Bylaws requires such indemnification to the fullest extent permitted by law.

ITEM 16. EXHIBITS.

EXHIBIT NO.	DESCRIPTION OF EXHIBIT
4.1	Rights Agreement, dated as of August 20, 1999, between Chesapeake Utilities Corporation and EquiServe Trust Company, N.A. as Rights Agent, including (i) the form of Certificate of Voting Powers, Designations, Preferences and Rights of Series A Participating Cumulative Preferred Stock attached thereto as Exhibit A, (ii) the form of Rights Certificate attached thereto as Exhibit B, and (iii) the Summary of Rights to Purchase Preferred Shares attached thereto as Exhibit C (incorporated by reference to Exhibit 4.1 of the Registrant's Current Report on Form 8-K dated August 24, 1999, File No. 001-11590).
4.2	First Amendment to Rights Agreement, dated as of September 12, 2008, between Chesapeake Utilities Corporation and Computershare Trust Company, N.A., as successor Rights Agent to BankBoston, N.A. (incorporated by reference to Exhibit 4.1 of the Registrant's Current Report on Form 8-K dated September 12, 2008, File No. 001-11590).
5	Opinion of Baker & Hostetler LLP regarding legality of the securities being offered.
23.1	Consent of Baker & Hostetler LLP (included in Item 5 above).
23.2	Consent of ParenteBeard LLC (incorporated by reference to Exhibit 23.2 of Amendment No. 1 to the Registration Statement on Form S-3 filed on January 6, 2012, Registration No. 333-178678).
24	Powers of Attorney (incorporated by reference to the Signature Page of the Registration Statement on Form S-3 filed on December 21, 2011, Registration No. 333-178678).

ITEM 17. UNDERTAKINGS.

- (a) The undersigned registrant hereby undertakes:
- (1) To file, during any period in which offers or sales are being made, a post-effective amendment to this Registration Statement;
 - (i) to include any prospectus required by Section 10(a)(3) of the Securities Act of 1933;

- (ii) to reflect in the prospectus any facts or events arising after the effective date of the registration statement (or the most recent post-effective amendment thereof) which, individually or in the aggregate, represent a fundamental change in the information set forth in the registration statement. Notwithstanding the foregoing, any increase or decrease in volume of securities offered (if the total dollar value of securities offered would not exceed that which was registered) and any deviation from the low or high end of the estimated maximum offering range may be reflected in the form of prospectus filed with the Commission pursuant to Rule 424(b) if, in the aggregate, the changes in volume and price represent no more than a 20% change in the maximum aggregate offering price set forth in the "Calculation of Registration Fee" table in the effective registration statement; and
 - (iii) to include any material information with respect to the plan of distribution not previously disclosed in the registration statement or any material change to such information in the registration statement; *provided, however*, that paragraphs (a)(1)(i), (a)(1)(ii) and (a)(1)(iii) of this section do not apply if the registration statement is on Form S-3 (§239.13 of this chapter) or Form F-3 (§239.33 of this chapter) and the information required to be included in a post-effective amendment by those paragraphs is contained in reports filed with or furnished to the Commission by the registrant pursuant to section 13 or section 15(d) of the Securities Exchange Act of 1934 that are incorporated by reference in the registration statement, or is contained in a form of prospectus filed pursuant to Rule 424(b) (§230.424(b) of this chapter) that is part of the registration statement.
- (2) That, for the purpose of determining any liability under the Securities Act of 1933, each such post-effective amendment shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof.
- (3) To remove from registration by means of a post-effective amendment any of the securities being registered which remain unsold at the termination of the offering.
- (4) That, for the purpose of determining liability under the Securities Act of 1933 to any purchaser:
- (i) each prospectus filed by the registrant pursuant to Rule 424(b)(3) (§230.424(b)(3) of this chapter) shall be deemed to be part of the registration statement as of the date the filed prospectus was deemed part of and included in the registration statement; and
 - (ii) each prospectus required to be filed pursuant to Rule 424(b)(2), (b)(5), or (b)(7) (§230.424(b)(2), (b)(5), or (b)(7) of this chapter) as part of a registration statement in reliance on Rule 430B relating to an offering made pursuant to Rule 415(a)(1)(i), (vii), or (x) (§230.415(a)(1)(i), (vii), or (x) of this chapter) for the purpose of providing the information required by section 10(a) of the Securities Act of 1933 shall be deemed to be part of and included in the registration statement as of the earlier of the date such form of prospectus is first used after effectiveness or the date of the first contract of sale of securities in the offering described in the prospectus. As provided in Rule 430B, for liability purposes of the issuer and any person that is at that date an underwriter, such date shall be deemed to be a new effective date of the registration statement relating to the securities in the registration statement to which that prospectus relates, and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof. *Provided, however*, that no statement made in a registration statement or prospectus that is part of the registration statement or made in a document incorporated or deemed incorporated by reference into the registration statement or prospectus that is part of the registration statement will, as to a purchaser with a time of contract of sale prior to such effective date, supersede or modify any statement that was made in the registration statement or prospectus that was part of the registration statement or made in any such document immediately prior to such effective date.
- (5) That, for the purpose of determining liability of the registrant under the Securities Act of 1933 to any purchaser in the initial distribution of the securities, in a primary offering of securities of the undersigned registrant pursuant to this registration statement, regardless of the underwriting method used to sell the securities to the purchaser, if the securities are offered or sold to such purchaser by means of any of the following communications, the undersigned registrant will be a seller to the purchaser and will be considered to offer or sell such securities to such purchaser:
- (i) Any preliminary prospectus or prospectus of the undersigned registrant relating to the offering required to be filed pursuant to Rule 424 (§230.424 of this chapter);
 - (ii) Any free writing prospectus relating to the offering prepared by or on behalf of the undersigned registrant or used or referred to by the undersigned registrant;
 - (iii) The portion of any free writing prospectus relating to the offering containing material information about the undersigned registrant or its securities provided by or on behalf of the undersigned registrant; and
 - (iv) Any other communication that is an offer in the offering made by the undersigned registrant to the purchaser.

(b) The undersigned registrant hereby undertakes that, for purposes of determining any liability under the Securities Act of 1933, each filing of the registrant's annual report pursuant to section 13(a) or section 15(d) of the Securities Exchange Act of 1934 that is incorporated by reference in this registration statement shall be deemed to be a new registration statement relating to the securities offered herein, and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof.

(c) Insofar as indemnification for liabilities arising under the Securities Act of 1933 may be permitted to directors, officers and controlling persons of the registrant pursuant to the foregoing provisions, or otherwise, the registrant has been advised that in the opinion of the Securities and Exchange Commission such indemnification is against public policy as expressed in the Act and is, therefore, unenforceable. In the event that a claim for indemnification against such liabilities (other than the payment by the registrant of expenses incurred or paid by a director, officer or controlling person of the registrant in the successful defense of any action, suit or proceeding) is asserted by such director, officer or controlling person in connection with the securities being registered, the registrant will, unless in the opinion of its counsel the matter has been settled by controlling precedent, submit to a court of appropriate jurisdiction the question whether such indemnification by it is against public policy as expressed in the Act and will be governed by the final adjudication of such issue.

(d) The undersigned registrant hereby undertakes that:

- (1) For purposes of determining any liability under the Securities Act of 1933, the information omitted from the form of prospectus filed as part of this registration statement in reliance on Rule 430A and contained in a form of prospectus filed by the registrant pursuant to Rule 424(b)(1) or (4) or 497(h) under the Securities Act of 1933 shall be deemed to be part of this registration statement as of the time it was declared effective; and
- (2) For the purpose of determining any liability under the Securities Act of 1933, each post-effective amendment that contains a form of prospectus shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof.

*	Director	January 10, 2012
_____ Thomas P. Hill, Jr.		
*	Director	January 10, 2012
_____ Dennis S. Hudson.		
*	Director	January 10, 2012
_____ Paul L. Maddock, Jr.		
*	Director	January 10, 2012
_____ J. Peter Martin.		
*	Director	January 10, 2012
_____ Joseph E. Moore, Esq.		
*	Director	January 10, 2012
_____ Calvert A. Morgan, Jr.		
*	Director	January 10, 2012
_____ Dianna F. Morgan		

* By: /s/ BETH W. COOPER
Beth W. Cooper, Attorney-in-Fact

OPINION OF BAKER & HOSTETLER LLP

January 10, 2012

Chesapeake Utilities Corporation
909 Silver Lake Boulevard
Dover, Delaware 19904

Ladies and Gentlemen:

We have acted as counsel to Chesapeake Utilities Corporation, a Delaware corporation (the "Company"), in connection with its Registration Statement on Form S-3 (as amended or supplemented, the "Registration Statement") filed with the Securities and Exchange Commission (the "Commission") under the Securities Act of 1933, as amended, relating to the proposed offer and sale by the Company of up to 546,343 additional shares of the Company's common stock, par value \$0.4867 per share (the "Shares") issuable pursuant to the Company's Dividend Reinvestment and Direct Stock Purchase Plan (the "Plan"), and the associated preferred stock purchase rights (the "Rights") to be issued pursuant to the Rights Agreement, dated as of August 20, 1999, as amended on September 12, 2008 (the "Rights Agreement"), between the Company and Computershare Trust Company, N.A., a federally chartered trust company, as successor rights agent to BankBoston, N.A. (formerly known as EquiServe Trust Company).

For purposes of this opinion, we have examined and relied upon copies of such records, documents, instruments and agreements as in our judgment are necessary or appropriate to enable us to render the opinions expressed below. In making such examination, we have assumed the genuineness of all signatures, the legal capacity of all natural persons, the authenticity of all documents submitted to us as originals, and the conformity to original documents of documents submitted to us as copies, the accuracy, completeness and authenticity of certificates of public officials, and the due authorization, execution and delivery of all documents where authorization, execution and delivery are prerequisites to the effectiveness of such documents. With respect to our opinion as to the Shares and Rights, we have assumed that the consideration to be paid in connection with the sale of the Shares and the associated Rights will be in accordance with the Plan and the Registration Statement. As to all matters of fact relevant to our opinion, we have relied exclusively, without independent investigation or verification, upon the above-described documents and on the certificates of public officials and officers of the Company.

In rendering this opinion, we have also assumed that the Rights Agreement was duly authorized, executed and delivered by the Rights Agent and that the members of the Company's Board of Directors (the "Board") acted in a manner consistent with their fiduciary duties as required under applicable law in adopting the Rights Agreement. With respect to the Rights, our opinion does not address the determination a court of competent jurisdiction may make regarding whether the Board would be required to redeem or terminate, or take other action with respect to, the Rights at some future time based on the facts and circumstances existing at that time. This opinion addresses the Rights and the Rights Agreement in their entirety and not any particular provision of the Rights or the Rights Agreement, and it should be understood that it is not settled whether the invalidity of any particular provision of a rights agreement or of purchase rights issued thereunder would result in invalidating such rights in their entirety. The Rights exist by virtue of and are subject to the Rights Agreement and the terms and conditions thereof, and it should be understood that the Rights Agreement and the Rights may be terminated or amended at the Company's option.

Based upon and subject to the foregoing, we are of the opinion that, as of the date hereof, the Shares have been duly authorized and, following (i) effectiveness of the Registration Statement, (ii) the issuance of the Shares in accordance with the terms of the Plan and the associated Rights in accordance with the Rights Agreement, and (iii) receipt by the Company of the consideration for the Shares specified in the Plan, (A) the Shares will be validly issued, fully paid and nonassessable and (B) the Rights will be the legal, valid and binding obligations of the Company.

We are opining solely on the Delaware General Corporation Law of the State of Delaware, including the rules and regulations underlying those provisions, and we do not express any opinion as to the laws of any other jurisdiction.

We hereby consent to the filing of this opinion as an exhibit to the Registration Statement and to the reference to our firm under the caption "Legal Opinion" in the prospectus included in the Registration Statement.

This opinion letter has been prepared for use in connection with the Registration Statement. We assume no obligation to advise you of any changes in the foregoing subsequent to the effective date of the Registration Statement.

Very truly yours,

/s/ BAKER & HOSTETLER LLP

BAKER & HOSTETLER LLP