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May 31, 2012

Via Electronic Filing

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor (filing room)
Harrisburg, PA 17120

Re: Implementation of Act 11 of 2012; Docket No. M-2012-2293611; **COMMENTS**

Dear Secretary Chiavetta:

Enclosed for filing with the Pennsylvania Public Utility Commission are the Comments of The Pennsylvania State University in the above-captioned matter.

Should you have any questions or comments, please feel free to contact me directly.

Very truly yours,

Thomas J. Sniscak

Thomas J. Sniscak

Counsel for
The Pennsylvania State University

TJS/das
Enclosures

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Implementation of Act 11 of 2012 : Docket No. M-2012-2293611

COMMENTS OF THE PENNSYLVANIA STATE UNIVERSITY
TO THE TENTATIVE IMPLEMENTATION ORDER ENTERED MAY 11, 2012

I. BACKGROUND

1. On February 14, 2012, Act 11 of 2012 ("Act 11") was signed into law by Governor Corbett. Act 11, among other things, provides for a Distribution System Improvement Charge ("DSIC"). Subject to certain terms and conditions, Act 11 extended a DSIC rate mechanism to electric, natural gas and wastewater utilities and also made certain modifications regarding the existing DSIC provisions of the Public Utility Code applicable to water utilities.

2. The Pennsylvania State University ("PSU") takes electric and natural gas service from utilities generally at large user or commercial rates. Its comments are submitted relative to such electric and natural gas service.

3. By Order entered May 11, 2012, the Commission adopted a Tentative Implementation Order ("Tentative Order") in the above-referenced docket soliciting comments from interested parties. Previously, on April 5, 2012, the Pennsylvania Public Utility Commission ("Commission") held a stakeholder collaborative in which PSU and others participated which is referenced in the Tentative Implementation Order.[1]

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[1] The Tentative Implementation Order appears to have been served only upon utilities affected or eligible under the Act 11 DSIC Legislation as opposed to all commentators who participated in the collaborative.

At pages 18 and 19 of the Tentative Order, the Commission states:

> Section 1358(d)(1) provides that a DSIC rate is to be "applied equally to all customer classes as a percentage of each customer's billed revenue" relative to distribution or service rates. Several informal comments were made on this point during the work group meeting suggesting that application of a uniform DSIC rate to every customer class may not be appropriate where, for example, a natural gas customer is the beneficiary of a lower rate designed to retain load or where the electric customer takes service at the transmission level of service. In our tentative view, the statutory language does not appear to permit a utility to have variances in its DSIC rates based on customer class, whether that difference is based on the calculation of the DSIC percentage or on the underlying DSIC-eligible property. While the model tariff in **Appendix A** retains this equal application provision, parties may file formal comments proposing an alternative interpretation.

4. PSU submits that where, as here, a statutory scheme is technically complex, the Commission has discretion to interpret and apply such legislation in a way which implements the statutory scheme in a reasonable and rational manner. *Popowsky v. Pennsylvania Public Utility Commission*, 550 Pa. 449, 706 A.2d 1197 (1997). Indeed, the courts have stated that they will extend judicial deference to this Commission in those circumstances. *Id.*

5. In the Tentative Order, the Commission, referencing only Section 1358(d)(1), suggests the DSIC must be applied equally to all customer classes as a percentage of each customer's billed revenue relative to distribution or service rates as a basis for its tentative conclusion. However, that section must be interpreted: (a) to distinguish types of service that are in reality not distribution service or are more in the nature of transmission or special pipeline services that are not part of or should not be part of the distribution system improvement initiative; (b) to permit the continued "flexing" of negotiated special contract rates for customers with service alternatives said practice having repeatedly been recognized by the Commission as ultimately benefitting all customers; and (c) to be applied in conjunction with Section 1357 "Computation of Charge", which in pertinent part, states that the DSIC calculation "shall be

applied in a manner consistent with Section 1358 (relating to customer protections) to each customer under the utility's ***applicable rates and charges***. 66 Pa.C.S. 1357(d)(1)(emphasis added). Thus, as discussed below, the Commission should conclude that a flex rate or special pipeline service under a negotiated agreement and rate is not a rate or service "applicable"[2] to DSIC.

II. FOR CUSTOMER ACCOUNTS THAT ARE SERVED BY A SPECIAL PIPELINE FINANCED BY THE CUSTOMER VIA A CONTRIBUTION IN AID OF CONSTRUCTION AND SUBJECT TO AN AGREEMENT WITH THE NATURAL GAS UTILITY TO TRANSPORT THE CUSTOMER'S OWN GAS OVER THAT DEDICATED AND CUSTOMER-FINANCED PIPELINE, SUCH SERVICE SHOULD NOT BE CONSIDERED DISTRIBUTION SERVICE OR A RATE APPLICABLE TO THE DSIC PROGRAM.

6. In this instance, a customer has two alternatives. The first is not to utilize the utility and drop off the system and to do a private by-pass for service to acquire the transport of its gas from the interstate pipeline market to its burner tip. The second is to stay with the utility.

7. At the outset, improvements to the rest of the utility's distribution system provide absolutely no benefit to that pipeline and service thereunder and it is neither rational nor reasonable to impose those costs upon said customer, and in essence tax such customer for deciding to stay with or utilize the utility. The Legislature could not have intended such result, and instead allowed flexibility in the language for the Commission to determine what is or is not an applicable rate for the DSIC under Section 1357.

[2] If the Commission did not have the ability to determine what rate is or is not "applicable" to DSIC, then there would be no point in adding this language. Under the rules of statutory construction each provision is intended to be given effect. 1 Pa.C.S. §1921.

8. It is without question that a large volume customer staying on the system, and not using by-pass, benefits both the utility and other customers by contributing toward the overall bottom line of collective costs to service as opposed to the customer taking its business elsewhere. Indeed, the Commission has recognized:

> [W]e would note that this Commission, for approximately twenty years, has allowed NGDCs to negotiate or "flex" their tariff rates in order to compete with bypass and energy alternatives. One of the principal goals to be achieved was to benefit <u>all</u> customer classes through the retention of the service. *Pa PUC v. The Peoples Natural Gas Company,* 2005 WL 6504491(emphasis in original); Docket No. R-00050267 (Order Entered September 30, 2005).

Similarly, the Commission noted:

> Peoples, like most other regulated Pennsylvania energy utilities, has the ability to negotiate rates with customers who have other energy options. Negotiated rates allow Peoples the necessary flexibility to compete with other energy providers in or near its service territory. Competition for customer load comes from many sources, including other NGDCs, interstate pipeline companies, private well gas, landfill gas, and alternate fuels (*i.e.*, electricity, fuel oil, propane, etc.). Peoples' service territory overlaps the service territories of other NGDCs. Peoples' service territory is also traversed by facilities of three major interstate pipeline companies. Many of Peoples' customers, especially industrial and commercial customers, have the ability to take natural gas service from multiple competitive suppliers. In addition, much of Peoples' service territory contains gas reserves that can be used to serve customers and, with the expected growth of Marcellus Shale gas in the service territory, more competition is expected from service to customers directly from independent Pennsylvania producers without use of Peoples' facilities. Customers' ability to access any of these other energy suppliers requires Peoples to have the ability to offer discounted transportation rates in order to retain these customers when it is beneficial to its customer base to do so.
>
> Peoples' success in competing for the patronage of these competitive customers has enabled Peoples to spread its costs of service among more customers and resulted in more consumption, thereby reducing the bills to all of its customers. If Peoples would lose any load to competition, the amount of fixed costs per Mcf to be recovered from the remaining customers would increase. In

> summary, all of Peoples' customers benefit from the use of negotiated discounted rates to retain load and prevent switching to an alternative energy source. *Pa PUC v. Peoples Natural Gas Company LLC*, 2011 WL 2750722; Docket No. R-2010-2201702 (Order Entered June 9, 2011).

9. The Commission, in implementing Act 11, should not do so in a way which will encourage large users in such situations to drop off the system or to use other alternatives, such as finding one of the many private pipeline companies to build a by-pass facility, and not be regulated or subject to jurisdictional rates.[3]

10. The golden rule in any ratemaking is to match costs to the cost-causer. It is patently against such rule to impose upon a large customer who will receive absolutely no benefit from DSIC improvements elsewhere for its accounts that are served by the pipeline it financed. Conversely, if the pipeline account were to be subject to the DSIC surcharge then the cost of the pipeline itself should be financed by the utility and run through the DSIC surcharge and charged to <u>all</u> customers because the existing utility pipeline network is insufficient and needs improvement to meet the customer's requirements. These two points support the flex agreement for the new pipeline being outside of the DSIC so costs are not divorced from the cost-causer in either instance.

11. A purpose of Act 11 is to repair, improve or replace eligible utility distribution property, such as aging distribution infrastructure. A newly constructed pipeline that is developed for the primary purpose of serving a large customer will not need to be repaired, improved, or replaced for decades. It would be inappropriate to apply a DSIC to the transportation charges that result from the use of such a newly constructed pipeline.

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[3] Under *Bethlehem Steel Corporation v. Pa PUC*, 552 Pa. 134, 713 A.2d 1110 (1998), our Supreme Court concluded that natural gas service to one customer via a by-pass pipeline was not jurisdictional public utility service.

III. THE COMMISSION SHOULD NOT APPLY THE DSIC TO NEGOTIATED FLEXIBLE CONTRACT CUSTOMERS.

12. Large customers such as PSU must make decisions as to whether to stay with a utility for certain natural gas transportation service or to pursue other alternatives. Using PSU as an example, it faces the choice of a by-pass pipeline by a non-jurisdictional pipeline company to transport approximately 2 bcf of PSU's natural gas purchased from a nearby interstate pipeline, or it could have its local natural gas utility construct the pipeline and provide the transportation service. Either way, PSU will pay the lion's share of the pipeline construction costs and will have a negotiated rate contract for the transportation service. In the first case, PSU essentially drops off the system or does not add that load. In the second case, it pays the utility nearly all the capital costs for the pipeline via contributions-in-aid of construction[4] for the new pipeline, stays on the system, and adds revenues that benefit ***all*** customers as the Commission noted in the cases cited above.

13. Adding the DSIC to this transport and special pipeline service serves only to provide a significant financial disincentive for PSU to stay with its gas utility for such service, and it is clear that DSIC service would be of absolutely no benefit to PSU's customer accounts which are served over this pipeline. On a broader scale, it cannot be good for the growth and retention of Pennsylvania institutions and businesses. Certainly the Legislature did not intend such result, and this Commission should interpret Section 1358(d)(1) in conjunction with Section

[4] Section 1. A. of the Model Tariff states a purpose of the DSIC is to "... develop and implement solutions to regional supply problems." PSU submits that should the DSIC be applied to flex rates then contributions-in-aid of construction should be prohibited with regard to building the types of new pipelines described. The EDC's should use the DSIC to fix and upgrade their system to serve the customer's load.

1357(d)(1) and conclude that flex contract rates and special pipeline service as described above in PSU's case should not be subject to the DSIC.[5]

14. Natural gas competition or energy alternatives have been in place in Pennsylvania for over two decades, which created the need for flex rates and other type of competitively-focused rates. Competition can take many forms, such as competition among various fuels (such as natural gas, oil, coal, and electricity), among the same fuel (e.g. gas vs. gas competition where a customer is situated to be able to obtain service from more than one gas distribution company) or among different gas delivery pipelines, such as a regulated distribution company pipeline and a privately constructed pipeline. Utility competition has been the long-standing business environment in Pennsylvania.

15. When flex rates or other competitively-focused rates are used by a gas utility to capture the patronage of a competitively-situated customer, the pricing that is agreed upon is a market-based price. Such a price was determined through discussions and negotiations between the distribution utility and the customer. There is no rational reason to expect that if a DSIC surcharge were added on top of an established market-based price agreement that the new resulting price would also be a market-based price. In fact, it would not. It would be a price that the customer finds objectionable and would pursue other competitive alternatives, resulting in loss of service by the regulated distribution company.

16. Companies that enter into flex rates or other competitively-focused rate agreements with regulated distribution companies for delivery service are by the very nature of the agreement making long-term decisions involving capital projects and project lives of several

[5] PSU recognizes that it will be subject to DSIC for the non-flex or non-pipeline accounts that pertain to service from the local natural gas distribution system. However, for any flex or special pipeline account, PSU believes the DSIC should not be applicable.

decades or longer. It is not appropriate or fair to then add an unexpected cost burden, a DSIC surcharge, to the price that the customer had agreed to pay.

IV. DSIC FILINGS SHOULD BE SUBJECT TO REVIEW BY ALL PARTIES

17. Sections 1354 and 1355 direct utilities to provide notice to customers concerning the DSIC filing and initial tariff and direct the Commission to hold hearings as necessary to review the petition. Section 1358(e) provides for audits and annual reconciliation. All such review processes should be open to all customers, without the requirement of filing a complaint. Section 1358(f) does allow the DSIC to be subject to complaint, which would still be in effect at times other than the initial review, quarterly filings, annual reconciliations and audits.

18. Section 1358(b)(3) directs that the DSIC be reset at zero if the utility's annual or quarterly earnings exceed the allowable rate of return, which the utility uses to calculate its fixed costs. DSIC costs are for projects that repair, improve or replace distribution property and such projects must be in the public interest. Utilities should be directed to provide all benefits including labor savings, efficiency improvements, maintenance reductions and costs savings that result from DSIC-eligible improvements. Such costs should be considered in the Section 1358(b)(3) review, and such review should be open to the public and customers.

V. TARIFF CHANGES

19. The Commission attached a model tariff to its Implementation Order as Appendix A. Consistent with its comments, PSU submits suggested changes to the model tariff. The updated model tariff is included with these comments as **Appendix A** and the changes to section 2.C. are highlighted in "show-revision" format.

VI. CONCLUSION

20. The Commission should use its discretion in interpreting Act 11 to conclude that the DSIC should not apply or be "applicable" to accounts for service under special natural gas transportation pipelines as described above and to accounts for flex or negotiated market-based contract rates for natural gas service. Otherwise, the Commission will create results that are contrary to the intent of Act 11.

Respectfully submitted,

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Dated: May 31, 2012

APPENDIX A

DISTRIBUTION SYSTEM IMPROVEMENT CHARGE (DSIC)

In addition to the net charges provided for in this Tariff, a charge of ___% will apply consistent with the Commission Order dated ____________ at Docket No. _____________, approving the DSIC.

[NOTE: THIS MODEL TARIFF IS EXPRESSED IN TERMS OF "DISTRIBUTION SYSTEMS." FOR WASTEWATER UTILITIES, THIS REFERS TO THEIR COLLECTION SYSTEMS.]

DISTRIBUTION SYSTEM IMPROVEMENT CHARGE (DSIC)

1. General Description

A. Purpose: To recover the reasonable and prudent costs incurred to repair, improve, or replace eligible property which is completed and placed in service and recorded in the individual accounts, as noted below, between base rate cases and to provide the Utility with the resources to accelerate the replacement of aging infrastructure, to comply with evolving regulatory requirements and to develop and implement solutions to regional supply problems.

The costs of extending facilities to serve new customers are not recoverable through the DSIC. [**NOTE FOR WATER/WASTEWATER:** Utility projects receiving PENNVEST funding or using PENNVEST surcharges are not DSIC-eligible property.]

B. Eligible Property: The DSIC-eligible property will consist of the following:
[CHOOSE UTILITY TYPE]

[ELECTRIC DISTRIBUTION COMPANIES]

- Poles and towers (account 364);
- Overhead conductors (account 365) and underground conduit and conductors (accounts 366 and 367);
- Line transformers (account 368) and substation equipment (account 362);
- Any fixture or device related to eligible property listed above including insulators, circuit breakers, fuses, reclosers, grounding wires, crossarms and brackets, relays, capacitors, converters and condensers;
- Unreimbursed costs related to highway relocation projects where an electric distribution company must relocate its facilities; and
- Other related capitalized costs.

[NATURAL GAS DISTRIBUTION COMPANIES AND CITY NATURAL GAS DISTRIBUTION OPERATIONS]

- Piping (account 376);
- Couplings (account 376);
- Gas services lines (account 378) and insulated and non-insulated fittings (account 378);
- Valves (account 376);
- Excess flow valves (account 376);
- Risers (account 376);
- Meter bars (account 382);
- Meters (account 381);

DISTRIBUTION SYSTEM IMPROVEMENT CHARGE (DSIC)

- Unreimbursed costs related to highway relocation projects where a natural gas distribution company or city natural gas distribution operation must relocate its facilities; and
- Other related capitalized costs.

[WATER UTILITIES]

- Services (account 333000), meters (account 334100) and hydrants (account 335000) installed as in-kind replacements for customers;
- Mains and valves (account 331800) installed as replacements for existing facilities that have worn out, are in deteriorated condition, or are required to be upgraded to meet under 52 Pa Code § 65 (relating to water service);
- Main extensions (account 331800) installed to eliminate dead ends and to implement solutions to regional water supply problems that present a significant health and safety concern for customers currently receiving service from the water utility;
- Main cleaning and relining (account 331800) projects; and
- Unreimbursed costs related to highway relocation projects where a water utility must relocate its facilities; and
- Other related capitalized costs.

[WASTEWATER UTILITIES]

- Collection sewers (account 360), collecting mains (account 360), and service laterals (account 361), including sewer taps, curbstops, and lateral cleanouts installed as in-kind replacements for customers;
- Collection mains (account 361) and valves (account 367) for gravity and pressure systems and related facilities such as manholes, grinder pumps, air and vacuum release chambers, cleanouts, main line flow meters, valve vaults, and lift stations installed as replacements or upgrades for existing facilities that have worn out, are in deteriorated condition, or are required to be upgraded by law, regulation, or order;
- Collection main extensions (account 381) installed to implement solutions to wastewater problems that present a significant health and safety concern for customers currently receiving service from the wastewater utility;
- Collection main rehabilitation (account 360) including inflow and infiltration projects;
- Unreimbursed costs related to highway relocation projects where a wastewater utility must relocate its facilities; and
- Other related capitalized costs.

DISTRIBUTION SYSTEM IMPROVEMENT CHARGE (DSIC)

C. Effective Date: The DSIC will become effective (**EFFECTIVE DATE**).

2. Computation of the DSIC

A. Calculation: The initial DSIC, effective **(EFFECTIVE DATE)**, shall be calculated to recover the fixed costs of eligible plant additions that have not previously been reflected in the Utility's rates or rate base and will have been placed in service between **(THREE-MONTH PERIOD ENDING ONE MONTH PRIOR TO EFFECTIVE DATE)**. Thereafter, the DSIC will be updated on a quarterly basis to reflect eligible plant additions placed in service during the three-month periods ending one month prior to the effective date of each DSIC update. Thus, changes in the DSIC rate will occur as follows:

Effective Date of Change	Date to which DSIC-Eligible Plant Additions Reflected
	(CHART TO BE FILLED IN BY UTILITY)

[THE FOLLOWING PARAGRAPHS PERTAIN TO WATER, WASTEWATER, ELECTRIC DISTRIBUTION, AND NATURAL GAS DISTRIBUTION UTILITIES ONLY. FOR CITY NATURAL GAS DISTRIBUTION OPERATIONS, SEE BELOW.]

B. Determination of Fixed Costs: The fixed costs of eligible distribution system improvements projects will consist of depreciation and pre-tax return, calculated as follows:

1. Depreciation: The depreciation expense shall be calculated by applying the annual accrual rates employed in the Utility's most recent base rate case for the plant accounts in which each retirement unit of DSIC-eligible property is recorded to the original cost of DSIC-eligible property.

2. Pre-tax return: The pre-tax return shall be calculated using the statutory state and federal income tax rates, the Utility's actual capital structure and actual cost rates for long-term debt and preferred stock as of the last day for the three-month period ending one month prior to the effective date of the DSIC and subsequent updates. The cost of equity will be the equity return rate approved in the Utility's last fully litigated base rate proceeding for which a final order was entered not more than two years prior to the effective date of the DSIC. If more

DISTRIBUTION SYSTEM IMPROVEMENT CHARGE (DSIC)

than two years shall have elapsed between the entry of such a final order and the effective date of the DSIC, then the equity return rate used in the calculation will be the equity return rate calculated by the Commission in the most recent Quarterly Report on the Earnings of Jurisdictional Utilities released by the Commission.

C. Application of DSIC: The DSIC will be expressed as a percentage carried to two decimal places and will be applied to the total amount billed to each applicable customer for distribution service [**WATER and WASTEWATER UTILITIES ONLY:** for service] under the Utility's otherwise applicable rates and charges, excluding permitted flexible pricing or negotiated market contract rates, special natural gas transportation service over a customer financed pipeline, amounts billed for [**WATER UTILITIES ONLY:** public fire protection service] and the State Tax Adjustment Surcharge (STAS). To calculate the DSIC, one-fourth of the annual fixed costs associated with all property eligible for cost recovery under the DSIC will be divided by the Utility's projected revenue for distribution service (including all applicable clauses and riders) for the quarterly period during which the charge will be collected, exclusive of [**WATER UTILITIES ONLY:** revenues from public fire protection service and] the STAS.

D. Formula: The formula for calculation of the DSIC is as follows:

$$DSIC = \frac{(DSI * PTRR)+Dep+e}{PQR}$$

Where:

DSI = Original cost of eligible distribution system improvement projects net of accrued depreciation.
PTRR = Pre-tax return rate applicable to DSIC-eligible property.
Dep = Depreciation expense related to DSIC-eligible property.
e = Amount calculated under the annual reconciliation feature or Commission audit, as described below.
PQR = Projected quarterly revenues for distribution service (including all applicable clauses and riders) from existing customers plus revenue from any customers which will be acquired by the beginning of the applicable service period. [**NOTE: UTILITY TO MAKE ELECTION AND STATE WHETHER SUCH QUARTERLY REVENUES WILL BE DETERMINED ON THE BASIS OF EITHER THE SUMMATION OF PROJECTED REVENUES FOR THE APPLICABLE THREE-MONTH PERIOD OR ONE-FOURTH OF PROJECTED ANNUAL REVENUES.]**

DISTRIBUTION SYSTEM IMPROVEMENT CHARGE (DSIC)

[FOR CITY NATURAL GAS DISTRIBUTION OPERATIONS ONLY]

B. Recoverable Costs: The recoverable costs shall be amounts reasonably expended or incurred to purchase and install eligible property and associated financing costs, if any, including debt service, debt service coverage, and issuance costs.

C. **Application of DSIC:** The DSIC will be expressed as a percentage carried to two decimal places and will be applied to the total amount billed to each customer for distribution service under the Utility's otherwise applicable rates and charges. To calculate the DSIC, one-fourth of the annual recoverable costs associated with all property eligible for cost recovery under the DSIC will be divided by the Utility's projected revenue for distribution services (including all applicable clauses and riders) for the quarterly period during which the charge will be collected.

D. Formula: The formula for calculation of the DSIC is as follows:

$$\text{DSIC} = \frac{\text{DSI} + \text{e}}{\text{PQR}}$$

Where:

DSI	=	Recoverable costs (defined in Section B. directly above)
e	=	the amount calculated under the annual reconciliation feature or Commission audit, as described below.
PQR	=	Projected quarterly revenues for distribution service (including all applicable clauses and riders) including any revenue from existing customers plus revenue from any customers which will be acquired by the beginning of the applicable service period. **[NOTE: UTILITY TO MAKE ELECTION AND STATE WHETHER SUCH QUARTERLY REVENUES WILL BE DETERMINED ON THE BASIS OF EITHER THE SUMMATION OF PROJECTED REVENUES FOR THE APPLICABLE THREE-MONTH PERIOD OR ONE-FOURTH OF PROJECTED ANNUAL REVENUES.]**

3. Quarterly Updates: Supporting data for each quarterly update will be filed with the Commission and served upon the Commission's Bureau of Investigation and Enforcement, the Office of Consumer Advocate, and the Office of Small Business Advocate at least ten (10) days prior to the effective date of the update.

DISTRIBUTION SYSTEM IMPROVEMENT CHARGE
(DSIC)

4. Customer Safeguards

A. Cap: The DSIC is capped at 5.0% of the amount billed to customers for distribution service (including all applicable clauses and riders) as determined on an annualized basis.

[Note: Several water utilities have Commission-approved DSICs that are capped at 7.5% of the amount billed for service.]

B. Audit/Reconciliation: The DSIC is subject to audit at intervals determined by the Commission. Any cost determined by the Commission not to comply with any provision of 66 Pa C.S. §§ 1350, *et seq.*, shall be credited to customer accounts. The DSIC is subject to annual reconciliation based on a reconciliation period consisting of the twelve months ending December 31 of each year. The revenue received under the DSIC for the reconciliation period will be compared to the Company's eligible costs for that period. The difference between revenue and costs will be recouped or refunded, as appropriate, in accordance with Section 1307 (e), over a one-year period commencing on April 1 of each year. If DSIC revenues exceed DSIC-eligible costs, such over-collections will be refunded with interest. Interest on over-collections and credits will be calculated at the residential mortgage lending specified by the Secretary of Banking in accordance with the Loan Interest and Protection Law (41 P.S. §§ 101, *et seq.*) and will be refunded in the same manner as an over-collection.

C. New Base Rates: The DSIC will be reset at zero upon application of new base rates to customer billings that provide for prospective recovery of the annual costs that had previously been recovered under the DSIC. Thereafter, only the fixed costs of new eligible plant additions that have not previously been reflected in the Utility's rates or rate base will be reflected in the quarterly updates of the DSIC.

D. Customer Notice: Customers shall be notified of changes in the DSIC by including appropriate information on the first bill they receive following any change. An explanatory bill insert shall also be included with the first billing.

E. All customer classes: The DSIC shall be applied equally to all customer classes.

F. Earning Reports: The DSIC will also be reset at zero if, in any quarter, data filed with the Commission in the Utility's then most recent Annual or Quarterly Earnings reports show that the Utility would earn a rate of return that would exceed the allowable rate of return used to calculate its fixed costs under the DSIC as described in the pre-tax return section. **[NOTE:**

DISTRIBUTION SYSTEM IMPROVEMENT CHARGE
(DSIC)

THIS PARAGRAPH IS NOT APPLICABLE TO CITY NATURAL GAS DISTRIBUTION OPERATIONS UTILITIES.]

G. Public Fire Protection: The DSIC of a water utility will not apply to public fire protection customers.