

PENNSYLVANIA PUBLIC UTILITY COMMISSION
Harrisburg, Pennsylvania 17105-3265

Implementation of Act 11 of 2012
Supplemental Implementation Order

Public Meeting held September 15, 2016
2293611-LAW
Docket No. M-2012-2293611

MOTION OF CHAIRMAN GLADYS M. BROWN

Before the Commission is the Supplemental Implementation Order of Act 11 of 2012 (Act 11) (Implementation Order). This Implementation Order addresses a number of issues related to the Distribution System Improvement Charge (DSIC) that have not been fully addressed in previous proceedings.

One discrete issue raised in this proceeding is whether the Commission has the authority to exclude the E-factor reconciliation component from the computation of the DSIC cap.¹ Clearly, Act 11 gives the Commission authority to waive the cap upon petition of a utility. The question at hand is whether the Commission has the authority to completely exclude the E-factor from the calculation of the DSIC rate cap without a utility first justifying it pursuant to the standards in 66 Pa. C.S. § 1358(a)(1). This section of Act 11 provides that a rate cap can be waived if it will "...ensure and maintain adequate, efficient, safe, reliable, and reasonable service."

The Office of Consumer Advocate (OCA) submits that "[e]xclusion of the E-factor from calculation of the rate-cap has the same effect as a direct waiver of the DSIC rate cap – to increase the rates above the statutory 5% or 7.5%." (OCA Comments at 12). The FirstEnergy Companies point out that the E-factor and the C-factor are both described together in 66 Pa. C.S. § 1358(e). Further, the FirstEnergy Companies state they are unaware of a statutory provision that would allow the Commission to exclude the E-factor from the C-factor and still comply with Section 1358. (FirstEnergy Companies Comments at 7-8).

I agree with the comments presented by OCA and the FirstEnergy Companies. Act 11 does not empower the Commission to universally disaggregate the E-factor from the DSIC calculation. Rather, Act 11 only grants the Commission the authority to waive the DSIC rate cap upon petition of an individual utility. The form of this waiver may come in the exclusion of the E-factor, in an increase of the rate cap to a new percentage, or in whatever form that a utility validly claims is necessary to ensure safe and reliable service. Such waivers must be made on a case-by-case basis and substantiated within the context of a utility's petition.

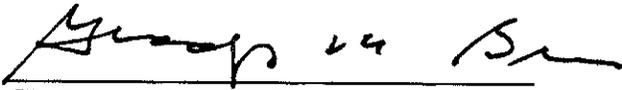
THEREFORE, I MOVE THAT:

1. The Supplemental Implementation Order for the Implementation of Act 11 of 2012 be modified consistent with this Motion.

¹ The E-factor component of the DSIC allows for the correction of prior period DSIC over/under-collections.

2. The Law Bureau prepare a Supplemental Implementation Order consistent with this Motion.

September 15, 2016
Date


Gladys M. Brown, Chairman