**PENNSYLVANIA**

**PUBLIC UTILITY COMMISSION**

**Harrisburg, PA 17105-3265**

Public Meeting held September 3, 2015

Commissioners Present:

Gladys M. Brown, Chairman

John F. Coleman, Jr., Vice Chairman

James H. Cawley

Pamela A. Witmer

Robert F. Powelson

|  |  |
| --- | --- |
| Petition of PECO Energy Company for Approval to Establish a Distribution System Improvement Charge for its Gas Operations  |  Docket Number: P-2013-2347340  |

**OPINION AND ORDER**

**BY THE COMMISSION:**

Before the Commission for consideration is the petition for approval of the Distribution System Improvement Charge (DSIC) of PECO Energy Company (PECO or the Company).

**BACKGROUND**

On February 14, 2012,Governor Corbett signed into lawAct 11 of 2012, (Act 11),[[1]](#footnote-1) which amends Chapters 3, 13 and 33 of Title 66. Act 11, *inter alia*, provides jurisdictional water and wastewater utilities, electric distribution companies (EDCs), and natural gas distribution companies (NGDCs) or a city natural gas distribution operation with the ability to implement a DSIC to recover reasonable and prudent costs incurred to repair, improve or replace certain eligible distribution property that is part of the utility’s distribution system. The eligible property for the utilities is defined in 66 Pa. C.S. §1351. Act 11 states that as a precondition to the implementation of a DSIC, a utility must file a Long Term Infrastructure Improvement Plan (LTIIP) with the Commission that is consistent with 66 Pa. C.S. §1352.

On April 5, 2012, the Commission held a working group meeting for discussion and feedback from stakeholders regarding its implementation of Act 11. On May 10, 2012, the Commission issued a Tentative Implementation Order addressing and incorporating input from the stakeholder meeting. Stakeholders filed comments to the Tentative Implementation Order on June 6, 2012. On August 2, 2012, the Commission issued the Final Implementation Order, at Docket No. M‑2012‑2293611, establishing procedures and guidelines necessary to implement Act 11.[[2]](#footnote-2)

**HISTORY OF THE PROCEEDING**

PECO, a corporation organized and existing under the laws of the Commonwealth of Pennsylvania, is in the business of providing electric delivery service to approximately 1.6 million customers and natural gas delivery service to approximately 503,000 customers in southeastern Pennsylvania. PECO is therefore a “public utility” within the meaning of 66 Pa. C.S. § 102, and a “natural gas distribution company” as defined in 66 Pa. C.S. § 2202, subject to the regulatory jurisdiction of the Commission.

Pursuant to 66 Pa. C.S. § 1352 and the Final Implementation Order, PECO filed a petition with the Commission on February 8, 2013 for approval of an LTIIP for its natural gas distribution system. The Company’s LTIIP was approved by Commission Order entered May 9, 2013 at Docket No. P‑2013‑2347340. On February 4, 2015, PECO filed a petition with the Commission to modify its existing LTIIP. The Company’s modified LTIIP was approved by Commission Order entered May 7, 2015 at Docket No. P‑2013‑2347340 (Modified LTIIP).

Pursuant to 66 Pa. C.S. § 1353 and the Final Implementation Order, PECO filed a petition with the Commission on March 20, 2015 requesting approval to establish a DSIC (DSIC Petition). PECO is providing notice of the DSIC Petition to its natural gas distribution customers by bill inserts in accordance with 66 Pa. C.S. § 1354 and the Final Implementation Order. Included with the DSIC Petition is a pro forma tariff supplement to PECO’s Tariff Gas – Pa. P.U.C. No. 2 to introduce the DSIC Rider into the Company’s tariff (Proposed Tariff).

The Philadelphia Area Industrial Energy Users Group (PAIEUG) filed a Petition to Intervene and Answer on March 27, 2015. PAIEUG, an ad hoc group of energy intensive customers receiving transportation-related services from PECO, notes that the Commission’s final disposition of PECO’s DSIC may directly impact the rates imposed on PAIEUG members for service. Therefore, PAIEUG requested the Commission open an investigation into whether PECO’s DSIC Petition is just, reasonable and consistent with Act 11.

The Office of Consumer Advocate (OCA) filed a Formal Complaint and Public Statement and an Answer on April 7, 2015. In its Formal Complaint and Public Statement, OCA requested that evidentiary and/or public input hearings be held as necessary, and that the DSIC Petition be scrutinized to ensure that PECO’s Proposed Tariff and proposed DSIC rate do not result in rates that are excessive, discriminatory or otherwise contrary to the law, Commission regulations or policy. In its Answer, OCA requested that the Commission deny PECO’s DSIC Petition as filed, suspend the Proposed Tariff and order a full hearing and investigation.

The Office of Small Business Advocate (OSBA) filed an Answer, Notice of Intervention and Public Statement on April 9, 2015. Notices of Appearance were also filed by OSBA on April 9, 2015 and April 15, 2015. OSBA requested the Commission suspend PECO’s Proposed Tariff and investigate whether the DSIC Petition is just and reasonable. OSBA also requested that the Commission refer the DSIC Petition to the Office of Administrative Law Judge for investigation and hearings. OSBA avers that “a thorough inquiry by the Commission into all of the elements of PECO’s petition is necessary to ensure that PECO’s proposals for making and paying for distribution system improvements are in accord with the Public Utility Code and with the Commission’s regulations and policies.” OSBA Public Statement at 1-2.

No objections or comments were received from federal, state or local governmental agencies.

**PECO’S DISTRIBUTION SYSTEM IMPROVEMENT CHARGE PETITON**

66 Pa. C.S. § 1353 requires utilities to file a petition seeking approval of a DSIC that includes the following:

1. An initial tariff that complies with the model tariff adopted by the Commission (Model Tariff), which includes:
	1. A description of eligible property;
	2. The effective date of the DSIC;
	3. Computation of the DSIC;
	4. The method for quarterly updates of the DSIC; and
	5. A description of consumer protections.
2. Testimony, affidavits, exhibits, and other supporting evidence demonstrating that the DSIC is in the public interest;
3. A Long Term Infrastructure Improvement Plan (LTIIP) as described in 66 Pa. C.S. § 1352;
4. Certification that a base rate case has been filed within five years prior to the filing of the DSIC petition; and
5. Other information required by the Commission.

PECO’s petition addresses each of the elements listed in the statute.

 **(1) Tariff Filing**

66 Pa. C.S. § 1353 requires utilities to file an initial tariff that complies with the Model Tariff adopted by the Commission. PECO’s Proposed Tariff, pro forma tariff supplement to Tariff Gas – Pa. P.U.C. No. 2, closely reflects the language of the Model Tariff. We shall review each item in turn.

 **(a) Eligible Property**

**PECO’s Petition**

PECO designates the same property as DSIC-eligible as is included in the Model Tariff for NGDCs, including piping, couplings, gas services lines and insulated and non-insulated fittings, valves, excess flow valves, risers, meter bars, meters, unreimbursed costs related to highway relocation projects where a natural gas distribution operation must relocate its facilities, and other related capitalized costs. Eligible property for NGDCs is defined in 66 Pa. C.S. § 1351(2).

**Comments**

No specific comments have been filed by PAIEUG, OCA, or OSBA regarding the eligible property of PECO’s DSIC tariff.

**Resolution**

We shall accept PECO’s proposed DSIC-eligible property as it is in accordance with 66 Pa. C.S. § 1351(2).

 **(b) Effective Date**

**PECO’s Petition**

In the Proposed Tariff, PECO requests an effective date of October 1, 2015.

**Comments**

No specific comments have been filed by PAIEUG, OCA, or OSBA regarding the effective date of the DSIC.

**Resolution**

The intervening parties have raised issues regarding certain elements of PECO’s DSIC petition and requested hearings. We shall refer two of those issues to the OALJ for hearing and recommended decision, as described below. However, implementation of the DSIC mechanism itself need not be delayed. We shall permit PECO to implement a DSIC mechanism, pursuant to a tariff filed on 10 days’ notice and in compliance with the directives in this order, but note that the rates charged pursuant to the DSIC surcharge shall be subject to recoupment and refund after final resolution of the issues brought before the OALJ. Therefore, based on requirements for DSIC quarterly updates, as more fully described below, the Commission directs PECO to file a tariff no later than September 20, 2015, if PECO wishes to have an effective date of October 1, 2015.

 **(c) Computation of the DSIC**

**PECO’s Petition**

PECO anticipates an initial DSIC of 0.00% based on the Company’s projected return on equity (ROE). With the DSIC Petition, PECO is seeking the ability to implement a DSIC charge in the future because the Company’s approved LTIIP and modified LTIIP provide for significant acceleration of its rate of cast iron and bare steel mains and bare steel services replacement, and the relocation of indoor meters outside of structures by 2034. PECO avers that the increased level of investment required to meet these goals cannot be sustained without the assurance that the Company has a mechanism in place to timely recover the capital costs.

The method PECO presents in the Proposed Tariff for calculation of the DSIC is identical to the formula set forth in the Model Tariff, and is as follows:

DSIC = (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.

PQR = Projected quarterly revenues for distribution service (including all applicable clauses and riders) from existing customers plus netted revenue from any customers which will be gained or lost by the beginning of the applicable service period.

Direct testimony submitted as Statement No. 1 by the Company’s witness Alan B. Cohn, Manager of Regulatory Strategy, states that “the DSIC calculations will be based on the Company’s capital structure and actual cost rates for long-term debt and preferred stock, if any, set forth in the Company’s most recent Quarterly Earnings Report at the time the calculation is prepared.” PECO Statement at 7.

According to Company witness Alan B. Cohn, PECO will use the most recent ROE authorized by the Commission in the calculation of the DSIC “unless a Commission finding of PECO’s cost of equity or a stipulated ROE is made or approved in a subsequent gas distribution base rate case.” PECO Statement at 7.

PECO proposes to use quarterly revenues that are determined on the basis of one-fourth of projected annual revenues.

Although the initial DSIC charge is expected to be 0.00%, PECO included with the DSIC Petition a calculation of a DSIC charge with values assigned for each variable that are reasonable for illustrative purposes (Sample DSIC Charge). Assuming an ROE of less than 10% for the period ending June 30, 2015, $3 million per month of eligible investment placed in service from April 1, 2015 through August 31, 2015, and depreciable life of 60 years, PECO estimates a DSIC charge of 0.65%. PECO’s Sample DSIC Charge calculation is:

DSIC = (14,947,925 \* 0.1141 \* 0.25) + 62,500 = 0.65%

 75,000,000

**Comments**

PAIEUG questions whether PECO’s DSIC filing is consistent with 66 Pa. C.S. § 1353(b)(4) based on the fact that PECO’s projected ROE would disqualify it from actually recovering any revenues through the DSIC. PAIEUG Answer at 5.

OCA also questions whether PECO’s DSIC Petition is consistent with the purpose of Act 11 given that PECO is not eligible to charge a positive DSIC before the expiration of the five year period since the Company’s last base rate case was filed. OCA Answer at 2.

OCA argues that the proposed DSIC calculation fails to reflect accumulated deferred income taxes (ADIT) associated with DSIC investments, and will allow PECO to earn a return on investment balance that exceeds its actual investment in DSIC eligible plant. OCA avers that “the rate base on which the pretax return is calculated must reflect an offset for accumulated deferred income taxes.” OCA Answer at 4.

OCA further argues that the calculation of the state income tax component of the DSIC revenue requirement determination requires further examination to ensure ratepayers receive the full benefit of tax deductions. OCA notes that “if the Company’s gross-up for pre-tax return in the DSIC computation does not recognize the flow-through of state income tax deductions associated with investments recovered through the DSIC, the DSIC rate will allow recovery of taxes that PECO will not pay.” OCA Answer at 2.

**Resolution**

The Staff Quarterly Report on the Earnings of Jurisdictional Utilities uses the DCF model, CAPM, and informed judgment to determine the ROE used for DSIC purposes and can be used to attain a DSIC ROE for PECO, in lieu of an ROE approved in a subsequent base rate case.

The Model Tariff makes available to utilities two options for calculating projected quarterly revenues: 1) The summation of projected revenues for the applicable three-month period; or 2) One-fourth of projected annual revenues. PECO proposes to use one-fourth of projected annual revenues as its projected quarterly revenues. The Model Tariff permits the use of one-fourth of annual revenues; therefore, PECO’s use of one-fourth of its projected annual revenues as its projected quarterly revenues is appropriate.

Pursuant to 66 Pa. C.S. § 1358 (b) (3), the DSIC shall be reset to zero if PECO’s most recent annual or quarterly earnings report shows that the Company’s ROE would exceed the allowable rate of return used to calculate its fixed costs under the DSIC. Since PECO’s projected ROE is currently above this threshold, the Company predicts an initial DSIC of zero. As long as no revenue recovery takes place through the DSIC until the Company is no longer over-earning, or a base rate case is filed, PECO shall be permitted to implement a DSIC mechanism in accordance with 66 Pa. C.S. § 1358 (b)(3). The Commission concludes that an initial DSIC charge of zero does not violate 66 Pa. C.S. § 1353, the intent of Act 11, or what is in the public interest, and therefore, we will not refer this issue to the OALJ for disposition.

The OCA claims that PECO’s DSIC calculation should be adjusted to reflect the impact of ADIT associated with DSIC investments made by the Company; otherwise PECO will earn a return on an investment balance that exceeds its actual investment.  That is, ADIT can be viewed as a source of zero cost capital.  The Commission has determined that the “adjustment, which was not previously used in the DSIC by the water industry, would add unnecessary complexities to the DSIC and, accordingly, will not be included in the model tariff.” Final Implementation Order at 39.

The Commission further notes that it has previously addressed the issues regarding ADIT and the calculation of the state income tax in the Columbia Gas DSIC proceeding.  *See Petition of Columbia Gas of Pennsylvania, Inc. for Approval of a Distribution System Improvement Charge*, Docket No. P-2012-2338282, Order entered May 22, 2014 (May 22nd Order).  We also note that the OCA has a pending appeal in Commonwealth Court against the May 22nd Order.  Specifically, this appeal involves the OCA’s issues related to the impact of ADIT associated with DSIC investments and the calculation of the state income tax component of the DSIC revenue requirement. Accordingly, these are now legal issues pending at the Commonwealth Court in the OCA’s appeal of the May 22nd Order.  We will abide by previous determinations set forth in the May 22nd Order and, thus, will not refer the ADIT issue or the calculation of the state income tax component of the DSIC revenue requirement to the OALJ for disposition.

 **(d) Quarterly Updates**

**PECO’s Petition**

A utility’s DSIC is subject to quarterly updates to reflect eligible plant additions placed in service during the three-month period ending one month prior to the effective date of any DSIC update. PECO’s Proposed Tariff includes a chart of the effective dates of the DSIC updates, and the corresponding period for eligible plant additions that will be reflected in each update. The Company states that all customers will be notified of the implementation of a DSIC and of all quarterly updates in the DSIC by bill insert and/or bill message, consistent with 66 Pa. C.S. § 1354 and the Final Implementation Order.

Direct testimony submitted by the Company’s witness Alan B. Cohn states that the costs included in PECO’s first positive DSIC charge will include investment in eligible plant placed in service “since the first month of the quarterly earnings period that is below the threshold ROE through a date 30 days before the DSIC is to become effective.” PECO Statement at 9.

**Comments**

OCA claims that PECO’s Sample DSIC Charge does not appear to comply with 66 Pa. C.S. § 1357(a)(1)(ii), which limits initial DSIC recovery to eligible plant placed in service during the three-month period ending one month prior to the effective date of the initial DSIC charge. For PECO’s proposed effective date of October 1, 2015, this would mean eligible plant placed in service from June 1, 2015 through August 31, 2015. OCA points out that PECO’s Sample DSIC Charge includes plant placed in service prior to June 1, 2015. OCA finds it unclear whether PECO intends to recover, in its first positive DSIC charge, investment that would have been eligible for recovery in the October 1, 2015 DSIC if the Company’s ROE would not have been above the threshold, and would like PECO’s intended computation of the DSIC to be clarified in regards to such. OCA Answer at 3.

**Resolution**

A utility’s DSIC is subject to quarterly updates to reflect eligible plant additions placed in service during the three-month period ending one month prior to the effective date of any DSIC update. PECO’s Sample DSIC Charge includes more than a three-month period of eligible plant additions. From the Sample DSIC Charge, it is unclear whether PECO intends to recover, in its first positive DSIC, investment that would have been eligible for recovery in the initial DSIC, had the Company not been over the ROE threshold. We will direct to the OALJ for disposition the issue on how the first positive DSIC should be calculated when an initial DSIC is 0.00% because of an over-earning situation.

PECO states that once its DSIC is implemented, customers will receive notice of quarterly changes in the DSIC through bill messages. This is consistent with Act 11 and the Final Implementation Order.

In accordance with 66 Pa. C.S. § 1358(e)(2), revenue received under the distribution system improvement charge for a reconciliation period shall be compared to the utility's eligible costs for that period. The difference between revenue and costs shall be recouped or refunded, as appropriate, in accordance with section 1307(e), over a one-year period or quarterly period commencing April 1 of each year. Based on the statute mandating over/under collections be refunded commencing April 1 of each year, quarterly updates shall be scheduled for April, July, October, and January. PECO’s proposed effective date of October 1, 2015 is in accordance with 66 Pa. C.S. § 1358(e)(2).

 **(e) Consumer Protections**

**PECO’s Petition**

In accordance with the Model Tariff and consistent with 66 Pa. C.S. § 1358, PECO’s Proposed Tariff also includes the following customer safeguards:

1. A 5.0% cap on the total amount of revenue that can be collected by PECO as determined on an annualized basis;
2. Annual reconciliations performed by PECO;
3. Audits conducted by the Commission;
4. Customer notice of any changes in the DSIC;
5. A reset of the DSIC to zero as of the effective date of new base rates that include the DSIC-eligible plant;
6. Provisions for the charge to be set at zero if, in any quarter, PECO’s most recent earnings report shows that the Company is earning a rate of return that exceeds the allowable rate of return used to calculate its fixed costs under the DSIC; and
7. Equal application of the DSIC to all customer classes.

**Comments**

PAIEUG notes that PECO’s DSIC Petition indicates that the DSIC will apply equally to all customers, which would include interruptible transportation (IT) customers served under rate schedule TS-1. PAIEUG opposes the Company’s proposal to apply the DSIC to IT customers taking service on Rate Schedule TS-1. PAIEUG avers that the Commission acknowledged “where customers have negotiated rates based on competitive alternatives, it would be contrary to the contract terms and counterproductive in the long term to add costs that may induce the customer to leave the system and provide no support for infrastructure costs.” Final Implementation Order at 46. PAIEUG requests that the Proposed Tariff be modified to exclude IT customers with competitive alternatives from any DSIC charges or, at minimum, clarify that the Company has the authority to do so. PAIEUG Answer at 6.

PAIEUG is also concerned with the Company’s calculation of the 5% cap on costs recovered through the DSIC. PAIEUG asserts that PECO did not include a detailed account of the charges, clauses, and/or riders incorporated into the 5% cap calculation. PAIEUG questions whether any supply-related costs have been improperly incorporated. PAIEUG Answer at 7.

**Resolution**

PECO’s Proposed Tariff is consistent with the Model Tariff and complies with the customer safeguards required by 66 Pa. C.S. § 1358. However, in regards to PAIEUG’s concern over the DSIC being applied equally to IT customers served under rate schedule TS-1, the Commission has determined that “utilities should have the flexibility to *not* apply the DSIC surcharge to customers with competitive alternatives and customers having negotiated contracts from the utility.” Final Implementation Order at 46.

The Commission further notes that it has previously addressed the issue regarding customers having negotiated contracts with the Company in the May 22 Order of the Columbia Gas DSIC proceeding[[3]](#footnote-3).  We will abide by previous determinations set forth in the May 22nd Order and, thus, direct PECO to include the following language to the Customer Safeguards section of the Proposed Tariff under Section 4.E:

The DSIC shall be applied equally to all customer classes, except that the Company may reduce or eliminate the Rider DSIC to any customer with competitive alternatives who are paying flexed or discounted rates and customers having negotiated contracts with the Company, if it is reasonably necessary to do so.

For purposes of calculating the DSIC charge, Company witness Alan B. Cohn states that distribution revenue will include distribution charges, consumer education charges, state tax adjustments, and balancing charges. Statement 1 at 8. PECO apparently recovers its costs for balancing services through distribution charges in its current tariff. Balancing charges may be more appropriately characterized as Purchased Gas Cost (PGC) related supply costs. The Commission is not certain that any other Pennsylvania NGDCs currently classify balancing services as distribution in nature or have sought inclusion of a PGC-related rate component in the DSIC cap calculation. Therefore, we will direct to the OALJ for disposition PECO’s treatment of balancing charges in its tariff and proposal to include balancing charges in the calculation of the 5% cap on costs recovered through the DSIC.

 **(2) Public Interest Considerations**

**PECO’s Petition**

According to the Company, allowing the Proposed Tariff to go into effect is in the public interest and will facilitate PECO’s compliance with 66 Pa. C.S. § 1501. Direct testimony submitted by the Company’s witness Alan B. Cohn, Manager of Regulatory Strategy, states “A DSIC provides financial assurance that will enable PECO to make sustained investments to accelerate its main and service replacement plan and enhance the safety and reliability of the Company’s gas distribution system.”

 Under PECO’s approved Modified LTIIP, the pace of cast iron and bare steel mains replacement is accelerated such that completion of their replacement will be by 2035, and indoor meters will be relocated outside of structures by 2034, as required by the Meter Location Regulations.

 PECO avers that the time period involved in seeking rate increases through the filing of base rate cases alone would compromise its ability to sustain accelerated rates of plant replacement.

**Comments**

No comments were received regarding the supporting evidence that PECO’s DSIC is in the public interest.

**Resolution**

66 Pa. C.S. § 1353(b)(2) requires testimony, affidavits, exhibits, and other supporting evidence to be submitted demonstrating that the DSIC is in the public interest. PECO’s submitted direct testimony by the Company’s witness Alan B. Cohn, and the schedule for planned repair and replacement of eligible property and cost effective measures outlined in the Company’s Modified LTIIP demonstrate how the proposed DSIC supports accelerated infrastructure improvement; therefore, the Commission concludes that the DSIC filing is in the public interest and that the Company has met its obligation under 66 Pa. C.S. § 1353.

 **(3) Long Term Infrastructure Improvement Plan**

**PECO’s Petition**

66 Pa. C.S. § 1353 requires that the utility have an approved Long Term Infrastructure Improvement Plan (LTIIP). PECO filed an LTIIP with the Commission on February 8, 2013, which was approved by Commission Order entered May 9, 2013 at Docket No. P‑2013‑2347340. PECO filed a petition to modify its existing LTIIP on February 4, 2015, which was approved by Commission Order entered May 7, 2015 at Docket No. P‑2013‑2347340.

 **(4) Base Rate Case**

**PECO’s Petition**

66 Pa. C.S. § 1353(b)(4) requires a utility to certify that it has filed a base rate case within the five years prior to the date of its DSIC petition. PECO has provided the required certification that its last base rate case, under which PECO’s current base rates were established, was filed on March 31, 2010.[[4]](#footnote-4)

 **(5) Other Information Required by the Commission**

**Section 1354 - Customer Notice**

Pursuant to 66 Pa. C.S. § 1354, a utility is required to provide customer notice of: 1) Submission of the DSIC petition; 2) Commission’s disposition of the DSIC petition; 3) Any quarterly changes to the DSIC rate; and 4) Any other information required by the Commission. PECO has verified that customer notice of the proposed DSIC will be provided by bill insert, and notice of Commission action thereon, and quarterly updates will be provided by insert and/or bill message, consistent with 66 Pa. C.S. § 1354 and the Final Implementation Order.

PECO has provided a copy of the bill insert to the Office of Consumer Advocate, the Commission’s Office of Communications, and the Commission’s Bureau of Consumer Services.

The Commission agrees that this is consistent with the notice requirements set forth in the Model Tariff, Act 11, and the Final Implementation Order.

**Bills Rendered or Service Rendered**

The Final Implementation Order directed utilities to bill customers for the DSIC on a bills rendered basis versus a service rendered basis[[5]](#footnote-5), based on current practice and procedure for water companies. (*See* 66 Pa. C.S. § 1358). PECO’s DSIC petition did specify that billing for the DSIC would be on a bills rendered basis in accordance with the Final Implementation Order. PECO’s Proposed Tariff, however, did not specify that billing for the DSIC would be on a bills rendered basis. Therefore, we direct PECO to add this language to its tariff.

**Section 1355 – Commission Review**

66 Pa. C.S. § 1355 provides that the Commission shall, after notice and opportunity to be heard, approve, modify or reject a utility’s proposed DSIC and initial tariff. The Bureau of Technical Utility Services has reviewed PECO’s proposed DSIC and Proposed Tariff and has determined that the filing contains all necessary items identified in 66 Pa. C.S. § 1355.

**DSIC SUMMARY**

We will approve the proposed DSIC calculation and tariff subject to the modifications consistent with this Order, including the following:

1. A tariff filed on ten days’ notice with an effective date no earlier than October 1, 2015;
2. The Bureau of Audits shall be added as a party served in the Quarterly Updates section of the tariff;
3. The following language shall be added to the Customer Safeguards section of the tariff:

The DSIC shall be applied equally to all customer classes, except that the Company may reduce or eliminate the Rider DSIC to any customer with competitive alternatives who are paying flexed or discounted rates and customers having negotiated contracts with the Company, if it is reasonably necessary to do so.

1. Language shall be added to the tariff specifying that billing for the DSIC will be on a bills rendered basis.

66 Pa. C.S. § 1355 also states that the Commission shall hold evidentiary and public input hearings as necessary to review the petition. As noted above, PAIEUG, OCA, and OSBA have intervened in PECO’s DSIC proceeding, and there were requests to hold evidentiary hearings.

Accordingly, we shall refer the following matters to the OALJ:

1. If PECO’s initial DSIC charge is 0.00% because of an over-earning situation at the time of implementation of the DSIC mechanism, can the Company recover, in its first positive DSIC charge, investment that would have been eligible had the Company not been over the ROE threshold?
2. Should PECO be allowed to recover costs for balancing services through distribution charges in its tariff and include balancing charges in the calculation of the 5% cap on costs recovered through the DSIC?

To the extent that PECO elects to implement a DSIC mechanism prior to resolution of these matters, any recovery will be subject to refund or recoupment consistent with the final determination on the matters referred to the OALJ.

**CONCLUSION**

Upon review, the Commission finds that the Petition of PECO for a Distribution System Improvement Charge complies with the requirements of Act 11 and our Final Implementation Order. Moreover, the Commission has reviewed the filing and does not find it to be inconsistent with the applicable law or Commission policy. Subject to recoupment and/or refund pending final resolution of the matters referred herein to the OALJ, PECO may elect to implement a DSIC mechanism consistent with this Order on ten days’ notice; **THEREFORE,**

**IT IS ORDERED:**

1. That the Petition for approval of a Distribution System Improvement Charge (DSIC) filed by PECO Energy Company for its Gas Operations is approved, consistent with this Order.

2. That PECO Energy Company shall file a tariff, consistent with this Order, on ten days’ notice to be effective October 1, 2015. Revenues collected pursuant to said tariff will be subject to refund and recoupment based on the Commission’s final resolution of the matters referred herein to the Office of Administrative Law Judge for hearing and recommended decision.

3. That the following issues be assigned to the Office of Administrative Law Judge for hearing and preparation of a recommended decision:

* 1. If PECO’s initial DSIC charge is 0.00% because of an over-earning situation at the time of implementation of the DSIC mechanism, can the Company recover, in its first positive DSIC charge, investment that would have been eligible had the Company not been over the ROE threshold?
	2. Should PECO be allowed to recover costs for balancing services through distribution charges in its tariff and include balancing charges in the calculation of the 5% cap on costs recovered through the DSIC?



**BY THE COMMISSION,**

Rosemary Chiavetta

Secretary

 (SEAL)

ORDER ADOPTED: September 3, 2015

ORDER ENTERED: September 11, 2015

1. <http://www.legis.state.pa.us/WU01/LI/LI/US/HTM/2012/0/0011..HTM>. [↑](#footnote-ref-1)
2. *Implementation of Act 11 of 2012 – Final Implementation Order*, Docket No. M‑2012‑2293611 (August 2, 2012). [↑](#footnote-ref-2)
3. *See Petition of Columbia Gas of Pennsylvania, Inc. for Approval of a Distribution System Improvement Charge*, Docket No. P-2012-2338282, Order entered May 22, 2014. [↑](#footnote-ref-3)
4. Docket No. R-2010-2161592. [↑](#footnote-ref-4)
5. “Bills rendered” bills are computed based on the effective tariff rate at the time of the bill. “Service-rendered” bills are prorated based on service rendered before and after a tariff rate change. [↑](#footnote-ref-5)