**PENNSYLVANIA**

**PUBLIC UTILITY COMMISSION**

**Harrisburg, PA 17105-3265**

Public Meeting held June 9, 2016

Commissioners Present:

Gladys M. Brown, Chairman

Andrew G. Place, Vice Chairman

John F. Coleman, Jr.

Robert F. Powelson

Petition of Pennsylvania Electric Company for P-2015-2508936

Approval of a Distribution System Improvement

Charge

Office of Consumer Advocate C-2016-2531060

v.

Pennsylvania Electric Company

**OPINION AND ORDER**

**BY THE COMMISSION:**

Before the Commission for consideration is the Petition for approval of the Distribution System Improvement Charge (DSIC) of Pennsylvania Electric Company (Penelec or Company).

**HISTORY OF THE PROCEEDING**

Penelec is in the business of transmitting and distributing electricity to retail customers within the Commonwealth, and is therefore a “public utility” within the meaning of Section 102 of the Public Utility Code, 66 Pa. C.S. § 102, subject to the regulatory jurisdiction of the Commission. Penelec, as an Electric Distribution Company (EDC), provides electric distribution service to approximately 584,000 customers in a certified service territory in all or portions of thirty-one counties in Pennsylvania.

In accordance with *Implementation of Act 11 of 2012*, Docket No. M‑2012‑2293611 (August 2, 2012) (Final Implementation Order), on September 18, 2012, at Docket Number P-2015-2508936, Penelec petitioned the Commission for approval of its Long Term Infrastructure Improvement Plan (LTIIP). The Company’s LTIIP was approved by the Commission on February 11, 2016. On February 16, 2016, Penelec filed a proposed tariff supplement to introduce the DSIC Rider into the Company’s tariff with an effective date of July 1, 2016. The filing was made pursuant to 66 Pa. C.S. § 1353 and the Final Implementation Order.

The Office of Consumer Advocate (OCA) filed comments on February 26, 2016. OCA filed a Formal Complaint and Public Statement, and an Answer to Penelec’s DSIC Petition. In its Answer to the Penelec DSIC Petition, OCA states that the Commission should deny the Company’s Petition as filed, suspend the proposed DSIC Rider, and refer the matter to the Office of Administrative Law Judge (OALJ). Specifically, OCA questions Penelec’s exclusion of certain customer classes from their DSIC Rider.

Penelec Industrial Customer Alliance (PICA) filed a Petition to Intervene and Answer on March 7, 2016. PICA requested the Commission grant their Petition to Intervene and provide PICA full-party status in this proceeding. In their Answer, PICA argues some customers only use a small portion of distribution infrastructure and therefore it is unjust and unreasonable to impose a DSIC on these customers. In addition, PICA is concerned the Company has not demonstrated what clauses and riders are included in calculating the 5% DSIC cap.

On March 7, 2016, Citizens for Pennsylvania’s Future (PennFuture) and Environmental Defense Fund (EDF) (collectively, Environmental Advocates) filed a Joint Petition to Intervene, Motion for Admission *Pro Hac Vice*, and Notice of Appearance. PennFuture and EDF requested the Commission grant them full-party status in this proceeding. The Environmental Advocates state they have interests and perspectives on issues in this proceeding, including but not limited to, grid modernization, integrated Volt/VAR control, and environmental impacts of distribution system improvements.

On March 9, 2016, the Office of Small Business Advocate (OSBA) filed a Notice of Intervention, Answer, Public Statement, and Notice of Appearance. OSBA requested the Commission hold hearings on the Petition. OSBA did not allege that any particular provision or relief requested by Penelec should be denied.

On March 16, 2016, Penelec filed an Answer to the Formal Complaint of OCA.

On March 24, 2016, Penelec filed an Answer to the Joint Petition to Intervene of the Environmental Advocates.

On March 24, 2016, Penelec filed a Reply to New Matter set forth in the Joint Answer of the Environmental Advocates.

On March 24, 2016, Penelec filed an Answer and Reply to New Matter to PICA’s Petition and Answer.

On March 29, 2016, EDF served Interrogatories.

On April 4, 2016, E. McCauley, an individual customer, filed a Formal Complaint.

On April 8, 2016, Penelec filed Objections to Interrogatories of EDF.

On April 18, 2016, the OSBA served Interrogatories (Set I) to Penelec.

On April 18, 2016, Michele Perry, an individual customer, filed a Formal Complaint.

On April 19, 2016, the Environmental Advocates filed a Motion to Dismiss Objections and Compel Answers.

On April 19, 2016, PICA filed a Motion for Leave to Amend its Petition to Intervene and Answer. On the same day PICA filed a Petition to Intervene and Answer.

On April 25, 2016, Penelec filed an Answer in Opposition to the Motion to Compel of the Environmental Advocates.

On April 28, 2016, Penelec provided Answers OSBA’s Interrogatories (Set I).

On May 2, 2016, Penelec filed an Answer to the Formal complaint of E. McCauley.

On May 4, 2016, Penelec filed an Answer to the Formal complaint of Michele Perry.

On May 9, 2016, Penelec filed an Answer to the Motion for Leave to Amend the Answer of PICA.

On May 16, 2016, OSBA served Interrogatories (Set II) to Penelec.

On May 19, 2016, Penelec provided Answers OSBA’s Interrogatories (Set II).

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

**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 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 Number M-2012-2293611, establishing procedures and guidelines necessary to implement Act 11.[[2]](#footnote-2)

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

Section 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, 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 Section 1352, 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.

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

**(1) Tariff Filing**

Section 1353 requires utilities to file an initial tariff that complies with the Model Tariff adopted by the Commission. Penelec’s proposed DSIC Rider closely reflects the language of the Model Tariff. We shall review each item in turn.

**(a) Eligible Property**

**Penelec’s Petition**

Penelec designates the same property as DSIC-eligible as it included in its LTIIP, including poles and towers, overhead and underground conduit and conductors, line transformers and distribution substation equipment, fixtures and devices related to the eligible property such as insulators, circuit breakers, fuses, reclosers, grounding wires, crossarms and brackets, relays, capacitors, converters and condensers, unreimbursed costs related to highway relocation projects, and other related capitalized costs.. Eligible property for EDCs is defined in Section 1351, 66 Pa. C.S. § 1351(1).

**Comments**

The Environmental Advocates state they have an interest in ensuring the Company plans to maximize cost-effective, clean energy including, but not limited to grid modernization, integrated Volt/VAR control, and environmental impacts of distribution system improvements.

Penelec denies that grid modernization, integrated Volt/ VAR control, and environmental impacts of distribution system improvements are issues in this proceeding. The Company maintains the scope of this proceeding is to determine whether the Company’s proposed DISC conforms to the Final Implementation Order and is consistent with the other applicable terms of that Order. Penelec notes they obtained Commission approval of its LTIIP, including the nature of the property it encompasses, prior to establishing a DSIC.

**Resolution**

Penelec’s proposed DSIC Tariff is consistent with the Model Tariff and complies with eligible property for EDCs as defined in Section 1351, 66 Pa. C.S. § 1351(1). We agree with the Company that the substantive issues pertaining to the issue of eligible property raised by the Environmental Advocates are outside the scope of this proceeding; nevertheless, the overall veracity of the Joint Petition for Intervention and the Joint Motion to Compel are best addressed by the OALJ, and so we shall recommend they be sent to the OALJ for hearing and disposition.

However, the Commission notes that, per Section 1357, 66 Pa. C.S. § 1357(a)(1), eligible property for an *initial DSIC* filing is defined as follows:

(1) The initial distribution system improvement charge shall be calculated to recover the fixed cost of eligible property that has:

1. Not previously been reflected in the utility’s rates or rate base.
2. Been placed in service during the three-month period ending one month prior to the effective date of the distribution improvement system charge.

In accordance with part (i) above, for its initial DSIC filing effective July 1, 2016, Penelec is proposing to only recover costs associated with eligible property placed into service during the month of May 2016, as this is the first month subsequent to the fully projected future test year (ending April 30, 2016) that the Company employed in its last base rate case.[[3]](#footnote-3) The rate case was resolved via a partial settlement, under which Penelec agreed to the following terms:

“On or before July 1, 2016, the Company will provide to the statutory advocates an update to Penelec Exhibit RAD-46, which will include actual capital expenditures, plant additions, and retirements by month for the twelve months ended April 30, 2016.  In Penelec’s next base rate proceeding, the Company will prepare a comparison of its actual expenses and rate base additions for the twelve months ended April 30, 2016 to its projections in this case.  However, it is recognized by the Joint Petitioners that *this is a black box settlement that is a compromise of Joint Petitioners’ positions on various issues*.”  Recommended Decision, p. 21.  Furthermore, “The Joint Petitioners expressly agreed these updates are for informational purposes only and *do not suggest any agreement among the parties as to specific components of the revenue requirement that is being recovered in the Settlement Rates.*” [Emphasis added] Recommended Decision, p. 33.

            The settlement points emphasized above presents an issue for the Commission, in that there is no clarity on whether or not plant placed in service in May 2016 has been previously included in the Company’s rate base and reflected in its rates as a result of the rate case.  Therefore, the issue of whether or not the May 2016 plant meets the prescribed definition of “eligible property”, thereby qualifying it for recovery under the DSIC, is called into question. This appears to be a determination that the Commission is unable to make without data on the actual plant additions accomplished in the projected test year; this data is required to avoid double recovery on post-test year plant additions.

            As a result of the foregoing discussion, the Commission directs Penelec to include in its compliance tariff filing updated plant data so the Commission may accurately discern when DSIC-eligible plant investment has exceeded the level being recovered via the Company’s base rates. Penelec should provide the amount of DSIC-eligible investment assumed in the fully projected future test year used in the rate case and a comparison of that test year amount to the amount of DSIC dollars actually expended in the projected test year for the period ending April 30, 2016.

**(b) Effective Date**

**Penelec’s Petition**

Penelec’s proposed DSIC Rider was filed as pro forma with no issued date and an effective date of July 1, 2016. According to direct testimony submitted as Statement No. 1 by Kevin M. Siedt, FirstEnergy Service Company Consultant in the Rates and Regulatory Affairs Department – Pennsylvania, “By implementing its DSIC effective July 1, 2016, Penelec will be able to charge an initial DSIC rate that reflects eligible property placed in service in May 2016, which is first month subsequent to the fully projected future test year employed in its last base rate case.” Penelec Statement at 5.

The Company is requesting the DSIC Rider to become effective on one days-notice.

**Comments**

No comments were filed regarding this aspect.

**Resolution**

Penelec’s last base rate case was founded on a fully projected future test year ending April 30, 2016. We agree that if the Company implements a DSIC charge effective July 1, 2016, only property placed in service in May 2016 will be eligible with the initial DSIC. As noted above, Penelec will need to provide eligible property data in its compliance filing to ensure that there is no double recovery of eligible property that may have been in its Rate Case rate base.

The Commission directs Penelec to file its DSIC Rider tariff supplement compliance filing on ten days-notice.

**(c) Computation of the DSIC**

**Penelec’s Petition**

Penelec’s DSIC Rider proposes an initial DSIC rate of 0.043%. In the Company’s DSIC Rider, the formula for calculation of the DSIC is as follows:

DSIC = ((DSI \* PTRR)+Dep+e) \* (1/(1-T))

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 revenue from any customers which will be acquired by the beginning of the applicable service period.

T = Pennsylvania gross receipts tax rate in effect during the billing month, expressed in decimal form.

Penelec’s calculation (in thousands) is:

DSIC = ((1,361,250\*2.85%)+5,860)\*(1/(1-5.9%))

109,467,358

According to direct testimony by Kevin M. Siedt, the final calculation of the initial DSIC rate will be calculated with updated data. Penelec Statement at 8.

Penelec has elected to use projected quarterly revenues rather than one-fourth of its projected annual distribution revenues. The Company avers that this method will more closely align with its actual sales and, therefore, avoid larger over or under-collections.

Penelec used an ROE of 9.90% in calculating its DSIC. On January 28, 2016, the Commission released the latest Bureau of Technical Utility Services Report on the Quarterly Earnings of Jurisdictional Utilities which set forth an equity return rate of 9.90% for use by electrical utilities in calculating their DSIC rates. Penelec states that when the Commission publishes an updated ROE to be used for DSIC purposes[[4]](#footnote-4), it will revise its tariff filing to reflect the allowed ROE.

**Comments**

No comments were filed regarding this aspect.

**Resolution**

We agree that Penelec’s calculation of the DSIC is appropriate. In the Bureau of Technical Utility Services Report on the Quarterly Earnings of Jurisdictional Utilities, released on May 19, 2016, the electric utilities ROE for calculating the DSIC rate is 9.80%. We direct Penelec to revise its final calculation of the initial DSIC rate accordingly.

**(d) Quarterly Updates**

**Penelec’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. The proposed DSIC Rider includes a chart of the effective dates of Penelec’s proposed DSIC updates, and the corresponding period for eligible plant additions that will be reflected in each update. The Company states that once its DSIC is implemented, customers will receive notice of quarterly changes in the DSIC through bill messages, consistent with Act 11 and the Final Implementation Order.

**Comments**

No comments were filed regarding this aspect.

**Resolution**

In accordance with 66 Pa. C.S. § 1358(e)(2), the revenue received under the DSIC for the 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, the Commission directs any utility filing for a DSIC to schedule the effective dates of their proposed DSIC updates, and the corresponding period for eligible plant additions that will be reflected in each update, to align quarterly with the months of April, July, October, and January. Penelec has suggested such a schedule in the filing of their proposed DSIC Rider, therefore, the Commission deems Penelec’s tariff to be compliant with Section 1358, 66 Pa. C.S. § 1358 as it pertains to the issue of quarterly updates.

**(e) Consumer Protections**

**Penelec’s Petition**

In accordance with the Model Tariff and consistent with Section 1358, Penelec’s proposed DSIC Rider also includes the following customer safeguards:

1. A 5.0% cap on the total amount of revenue that can be collected by Penelec as determined on an annualized basis;
2. Annual reconciliations performed by Penelec;
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; and
6. Provisions for the charge to be set at zero if, in any quarter, Penelec’s most recent earnings report shows that Penelec is earning a rate of return that exceeds the allowable rate of return used to calculate its fixed costs under the DSIC.

As a customer safeguard, the Model Tariff states that the DSIC shall be applied equally to all customer classes.

Direct testimony of Kevin M. Siedt states, “The DSIC will not apply to customers receiving service under Rate Schedules GP and LP at voltage levels over 46,000 volts. Although those customers receive service at what are, for Penelec, transmission-level voltages, they are served by facilities that are properly classified as distribution plant, are recorded in the Company’s distribution plant accounts and have been included in the Company’s Pennsylvania distribution rate base for purposes of establishing its distribution base rates. However, Penelec’s LTIIP does not contain any infrastructure improvement projects for distribution facilities operating at transmission-level voltages and, therefore, the Company’s calculations of its DSIC rates, during the five-year term of its currently approved LTIIP, will not include any additions to such plant. Accordingly, it is appropriate that the DSIC not apply to customers receiving service under Rate Schedules GP at voltage levels over 46,000 volts.” Penelec Statement at 6.

**Comments**

PICA argues the Company has not demonstrated that full allocation of the DSIC among customers in all rate cases with the exception of customers taking service under Rate Schedules GP and LP, at voltage levels over 46,000 volts (the Exempt Class), is just and reasonable. PICA states some customers outside the Exempt Class only use a small portion of distribution infrastructure and therefore it is unjust and unreasonable to impose a DSIC on these customers. Furthermore, PICA is concerned Penelec has not demonstrated what clauses and riders will be included in calculating the 5% DSIC cap.

OCA is concerned with Penelec’s proposal to not apply the DSIC to customers under Rate Schedules GP and LP at voltage levels over 46,000 volts. OCA argues Act 11 requires all customers served by eligible categories of distribution facilities to contribute to the improvement of those facilities through the DSIC.

**Resolution**

Penelec’s proposed DSIC Rider is consistent with the Model Tariff and complies with the customer safeguards required by 66 Pa. C.S. § 1358. However, in the Implementation Order the Commission stated that “[w]ith regard to the issue of applying a DSIC surcharge to EDC customers receiving service at transmission voltage, we are in general agreement with EAP and other commenters that a DSIC surcharge should not be applied to such customers.” Implementation Order, p.46. The Commission acknowledges customers taking service at transmission voltage rates should be included under the DSIC charge only if facilities serving such customers are considered distribution plant for ratemaking purposes. Implementation Order, p.46.

The issues of whether customers taking service at transmission voltage rates should be included under the DSIC, whether other customers should also be exempt from the DSIC, and if revenues associated with the riders in Penelec’s tariff are properly included as distribution revenues should be further investigated. We shall refer these issues to OALJ for hearing and recommended decision.

Penelec’s proposed DSIC Rider incorporates the same language set forth in the Model Tariff and approved in the Final Implementation Order regarding the 5% cap on distribution charges, therefore, we shall accept that Penelec’s revenue base for calculating the DSIC cap consists of DSIC-eligible property.

**(2) Public Interest Considerations**

**Penelec’s Petition**

According to the Company, implementing the proposed DSIC and allowing the proposed DSIC Rider to go into effect is in the public interest because the DSIC will ensure that customers continue to receive safe and reliable service in the future as required by Section 1501, 66 Pa. C.S. § 1501.

The implementation of the LTIIP is expected to provide additional reliability improvement by upgrading and modernizing the distribution system, therefore enhancing service to customers. Consistent with that goal, during the period covered by the LTIIP, Penelec will increase and accelerate spending beyond what has historically been required to counteract routine system degradation. The DSIC will permit the Company to recover the increased investment in a timely manner and avoid larger, one-time increases to customers that would result in a base rate filing.

**Comments**

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

**Resolution**

Section 1353 requires testimony, affidavits, exhibits, and other supporting evidence to be submitted demonstrating that the DSIC is in the public interest. Based on Penelec’s submitted direct testimony by the Company’s Consultant in the Rates and Regulatory Affairs Department – Pennsylvania and exhibits demonstrating how the proposed DSIC supports accelerated infrastructure improvement, the Commission concludes that the DSIC filing is in the public interest and that the Company has met its obligation under Section 1353.

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

Section 1353 requires that the utility have an approved Long Term Infrastructure Improvement Plan (LTIIP). Penelec filed an LTIIP with the Commission on October 19, 2015, and approved by the Commission on February 11, 2016 at Docket No. P‑2015‑2508936.

**(4) Base Rate Case**

Section 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. Penelec has provided the required certification that its last base rate case, under which Penelec’s current base rates were established, was filed on August 4, 2014.[[5]](#footnote-5)

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

**Section 1354 - Customer Notice**

Pursuant to Section 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. Penelec has verified that it will provide customer notice of the proposed DSIC, Commission action thereon, and quarterly updates through bill inserts, consistent with Act 11 and the Final Implementation Order.

Penelec will include a bill insert beginning on February 29, 2016, in the bills issued to customers who are subject to the DSIC informing them of the filing of this Petition and the estimated impact on their bills. The Company will continue inserting such notices in customers’ bills until all customers subject to the DSIC have received notice. Additionally, customers will be notified of updates to the DSIC rate through a bill message and the DSIC rate will be shown on the customer’s bill as a separate charge.

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[[6]](#footnote-6), based on current practice and procedure for water companies. (*See* 66 Pa. C. S. § 1358). Penelec’s proposed tariff did not specify whether billing for the DSIC would be on a bills rendered or a service rendered basis. Therefore, in accordance with the Final Implementation Order, we direct Penelec to modify the language in the proposed tariff to specify that customers would be billed for the DSIC on a bills rendered basis.

**Section 1355 – Commission Review**

Section 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 Penelec’s proposed DSIC Rider and has determined that the filing contains all necessary items identified in Section 1353.

**DSIC SUMMARY**

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

1. The proposed DSIC Rider shall be filed as a tariff supplement on ten days’ notice with an effective date no earlier than July 1, 2016;
2. A compliance filing using a one-month period of May 2016 for eligible plant additions that should also provide the amount of DSIC-eligible investment assumed in the fully projected future test year used in the Rate Case and a comparison of that test year amount to the amount of DSIC dollars actually expended in the future test year for the period ending April 30, 2016;
3. An appropriate return on equity as displayed in the Commission’s Quarterly Report for the period ending December 31, 2015;
4. An initial quarterly depreciation expense being equal to the initial accumulated depreciation; and,
5. Language shall be added to the proposed DSIC Rider to specify that customers will be billed for the DSIC on a bills rendered basis.

Section 1355 also states that the Commission shall hold evidentiary and public input hearings as necessary to review the petition. As noted above, PICA, OCA, the Environmental Advocates, and OSBA have petitioned to intervene in Penelec’s DSIC proceeding, and there were requests to hold evidentiary hearing on several aspects of the DSIC.

Accordingly, the matters of whether certain customers taking service at transmission voltage rates should be included under the DSIC, whether other customers should also be exempt from the DSIC, and if revenues associated with the riders in Penelec’s tariff are properly included as distribution revenues is referred to OALJ as provided in our discussion of Penelec’s DSIC. To the extent that Penelec elects to implement a DSIC mechanism prior to resolution of these matters, any recovery will be subject to refund or recoupment consistent with final determinations on these matters referred to OALJ.

We note the filings by OCA, PICA, the Environmental Advocates, and OSBA. Consistent with our discussion above, we conclude that they have not articulated a basis for denying Penelec the opportunity to implement a DSIC mechanism.

**CONCLUSION**

Upon review, the Commission finds that the Petition of Penelec 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, Penelec 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 Pennsylvania Electric Company is approved, consistent with this Order.

2. That Pennsylvania Electric Company shall file a tariff, consistent with this Order, on ten days’ notice to be effective July 1, 2016. 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. The Commission directs Pennsylvania Electric Company to file updated plant data along with its compliance tariff so that the Commission may accurately discern when DSIC-eligible plant investment has exceeded the level being recovered via rate base in Pennsylvania Electric Company’s base rates.

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

* 1. Whether certain customers should or should not be included under the distribution system improvement charge;
  2. Whether other customers should also be exempt from the DSIC;
  3. If revenues associated with the riders in Pennsylvania Electric Company’s tariff are properly included as distribution revenues.
  4. The Petition for Intervention of Penelec Industrial Customer Alliance;
  5. The Joint Petition for Intervention of the Citizen’s for Pennsylvania’s Future and the Environmental Defense Fund; and,
  6. The Joint Motion to Compel of the Citizen’s for Pennsylvania’s Future and the Environmental Defense Fund and the Commission waives the fifteen (15) day timeframe restriction set forth in 52 Pa. Code § 5.342.

5.       That the Commission grants in part and denies in part the Formal Complaint and Answer of the Office of Consumer Advocate consistent with the body of this Order.

6.       That the Commission grants in part and denies in part the Answer of the Office of Small Business Advocate consistent with the body of this Order.

7. That the Pennsylvania Electric Company shall provide the estimated number of anticipated new jobs to be created for specific replacement projects with its revised initial DSIC tariff.  Additionally, the Pennsylvania Electric Company shall track such employment information and provide the actual numbers of jobs created to the Commission by January 31st of each year.

**BY THE COMMISSION,**

Rosemary Chiavetta

Secretary

(SEAL)

ORDER ADOPTED: June 9, 2016

ORDER ENTERED: June 9, 2016

1. <http://www.legis.state.pa.us/WU01/LI/LI/US/HTM/2012/0/0011..HTM>. [↑](#footnote-ref-1)
2. On November 5, 2015, the Commission issued a *Tentative Supplemental Implementation Order* soliciting comments regarding additional implementation issues that have arisen since the 2012 Final Implementation Order. [↑](#footnote-ref-2)
3. Penelec filed a base rate case on August 4, 2014 that was resolved via partial settlement approved by the Commission on April 9, 2015 at Docket No. R-2014-2428743. [↑](#footnote-ref-3)
4. The ROE to be used in the DSIC calculation will be that which is calculated by the Commission in its most recent Quarterly Report on the Earnings of Jurisdictional Utilities. [↑](#footnote-ref-4)
5. Docket No. R-2014-2428743. [↑](#footnote-ref-5)
6. “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-6)