Energy Association of Pennsylvania

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July 22, 2022

Rosemary Chiavetta, Esq., Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor
Harrisburg, Pennsylvania 17120

**Re: Comments of the Energy Association of Pennsylvania to April 22 Secretarial Letter Establishing a Generic Proceeding to Revise the Model DSIC Tariff Pursuant to the Supreme Court Decision in McCloskey V. Pa. PUC, Docket M-2012-2293611**

Dear Secretary Chiavetta:

Attached for filing, please find the Comments of the Energy Association of Pennsylvania's in the above docket.

Sincerely,

Donna M.J. Clark

Donna M.J. Clark
Vice President & General Counsel

Enclosure

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**BEFORE THE**
**PENNSYLVANIA PUBLIC UTILITY COMMISSION**

| | | |
|---|---|---|
| Distribution System Improvement Charge<br>Implementation Order to Address All Issues<br>Pertaining to the DSIC Calculations Required in<br>The Pa. Supreme Court's Decision in McCloskey v.<br>Pa. PUC, 255 A. 3d 416 (Pa. 2021) | :<br>:<br>:<br>:<br>: | Docket No. M-2012-2293611 |

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**COMMENTS OF THE**
**ENERGY ASSOCIATION OF PENNSYLVANIA TO**
**APRIL 22 SECRETARIAL LETTER ESTABLISHING A GENERIC PROCEEDING TO REVISE THE MODEL DSIC TARIFF PURSUANT TO THE SUPREME COURT DECISION IN McCLOSKEY V. Pa. PUC**

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## I. INTRODUCTION

On April 22, 2022, the Pennsylvania Public Utility Commission ("Commission" or "PUC") issued a Secretarial Letter initiating a generic proceeding to review and revise the existing Distribution System Improvement Charge ("DSIC") Model Tariff in light of the Pennsylvania Supreme Court's interpretation of Section 1301.1(a) of the Pennsylvania Public Utility Code, 66 Pa. C. S. § 1301.1(a) in *McCloskey v. Pa. PUC*, 255 A. 3d 416 (Pa. 2021).

In *McCloskey*, the Supreme Court affirmed the holding of the Commonwealth Court that new statutory language added by Act 40 applied to the DSIC and altered its calculation. Specifically, the Court affirmed the Commonwealth Court's decisions, finding that Section 1301.1(a) of the Public Utility Code requires state income tax deductions and accumulated deferred federal income taxes ("ADIT") associated with DSIC-eligible plant additions to be included in the DSIC calculation. The Supreme Court remanded *McCloskey*, which involved Metropolitan Edison Company, Pennsylvania Electric Company, Pennsylvania Power Company and West Penn Power Company (collectively the FE Companies), to the Commission for the purpose of requiring revisions to the FE Companies' tariffs and DSIC calculations in accordance with its interpretation of Section 1301.1(a) of the Public Utility Code, 66 Pa. C.S. § 1301.1(a).

Upon remand, the FE Companies filed a Petition for Interlocutory Review and Answer to Material Question ("Petition") on January 31, 2022[1] asking the Commission to initiate a generic proceeding in light of due process concerns for the purpose of revising the model DSIC tariff[2] to comply with the Supreme Court interpretation of Section 1301.1 (a) of the Pennsylvania Public Utility Code, 66 Pa. C.S. § 1301.1 (a). By Opinion and Order entered February 2022,[3] the Commission granted the Petition, in part[4], determining that a generic proceeding "would help expedite the resolution of the Model Tariff revisions applicable to all twenty-six Pennsylvania utilities having Commission approval to impose DSIC charges....[and] that establishing a generic proceeding would be a more efficient use of the Commission and stakeholder's resources rather than individually and separately addressing compliance with Section 1301.1(a) for each utility employing a current and future DSIC." Opinion at p, 15. The Commission concluded that a generic proceeding "will afford proper notice and opportunity for participation for all potential stakeholders and thus allay any potential due process concerns that might otherwise result from a Commission determination of the issues in this proceeding limited to the [FE] Companies." *Id.* The Commission tasked the Secretary's Bureau and the Bureau of Technical Utility Service ("TUS") with the issuance of a secretarial letter establishing a generic proceeding to "address all issues pertaining to the distribution system improvement charge calculations required in the

[1] The Office of Consumer Advocate ("OCA") and the Office of Small Business Advocate ("OSBA") supported the Petition filed by the FE Companies.
[2] The current model DSIC tariff was approved by the Commission in 2016. *See, Supplemental Implementation Order Re: Implementation of Act 11 of 2012,* Docket No. M-2012-2293611 (September 15, 2016).
[3] *See,* Petition of Metropolitan Edison Companies for Approval of a Distribution System Improvement Charge, Docket Nos. P-2015-2508942, P-2015-2508936, P-2015-2508931 and P-2015-2508948 (Opinion and Order entered Feb. 24, 2022).
[4] The Commission denied the Petition to the extant it requested to refer the remanded FE case to the generic proceeding. The remanded FE case was held in abeyance pursuant to the Commission Order granting the Petition.

Pennsylvania Supreme Court's decision in *McCloskey v. Pa. PUC*, 255 A.3d 416 (Pa. 2021)". Ordering Paragraph 2 at p. 17.

The April 22 Secretarial Letter initiated the generic proceeding and sought comments within thirty (30) days from interested parties addressing four key topics, which will facilitate resolution of the issues stemming from the *McCloskey* decision described in the Letter. It further provided that, following a Commission review of filed comments, interested parties will be invited to join a working group and a meeting would be scheduled to provide a forum for discussion and feedback as the Commission begins its implementation of DSIC calculations pursuant to the Supreme Court holding in *McCloskey*. Subsequently, the Commission extended the timeframe for filing comments until July 22, 2022.[5]

The Energy Association of Pennsylvania ("Association" or "EAP"), a trade association whose members include the major natural gas and electric public utilities operating in the Commonwealth of Pennsylvania, submits these comments addressing the topics outlined in the Secretarial Letter on behalf of its electric distribution company ("EDC") and natural gas distribution company ("NGDC") members.[6] Individual member companies may also submit additional input on these topics and EAP, along with its individual members, will participate in the working group referenced in the Secretarial Letter.

EAP comments include proposed changes to the existing model DSIC tariff as detailed in Attachment A. Notably, EAP's proposals and suggestions regarding revisions to the DSIC

[5] EAP filed a Petition for Expedited Consideration of its request to extend the due date for all interested parties to submit comments to the April 22 Secretarial Letter which was subsequently granted by the PUC on May 18, 2022.
[6] EDC Members include: Citizens' Electric Company; Duquesne Light Company; Metropolitan Edison Company; PECO Energy Company; Pennsylvania Electric Company; Pennsylvania Power Company; Pike County Light & Power Company; PPL Electric Utilities Corporation; UGI Utilities, Inc. (Electric Division); Wellsboro Electric Company; and, West Penn Power Company. NGDC Members include: Columbia Gas of Pennsylvania, Inc.; Pike County Light & Power Company; National Fuel Distribution Corp.; PECO Energy Company; Peoples Natural Gas Company LLC; Philadelphia Gas Works.; UGI Utilities Inc.; and Valley Energy Inc.

calculation endeavor to comply with *McCloskey* without unduly complicating the computations so as to "permit reasonable review and audit of DSIC charges and their supporting calculations". Secretarial Letter at p. 3. At the same time, the DSIC calculations will undoubtedly become more complex and less streamlined in order to comply with the Supreme Court decision. EAP urges all parties to work together so as to avoid, where possible, additional burdens that could be perceived as undermining the legislative purpose of the DSIC mechanism.

Additionally, EAP reserves the right to address comments and proposals offered by other interested parties in the context of this generic proceeding and the right to comment on any final proposal offered by the working group for Commission consideration, if warranted. EAP also seeks clarity on the process following a working group meeting and anticipates that any recommendation from the working group would be followed by Commission action, perhaps in the form of a tentative order, which would be subject to further public input prior to the issuance of a final order.

## II. COMMENTS

EAP welcomes the opportunity to participate in this generic proceeding which will work collectively to provide the Commission with a consensus approach to revised DSIC calculations for consideration as it implements the holding in *McCloskey*. EAP supports a high level and straightforward approach that provides flexibility for industry and utility differences and allows for occasional atypical situations, e.g., accounting for bonus depreciation.

## A. KEY TOPICS IDENTIFIED IN SECRETARIAL LETTER

### i. Changes to be made to the current model DSIC tariff, including the necessary computation, reconciliation and other language to implement the directive of the Court to recognize incremental Accumulated Deferred Income Taxes (ADIT) and state tax depreciation deductions for accelerated depreciation in quarterly calculation of DSIC.

EAP proposes the changes detailed in the red-lined model DSIC tariff attached hereto as Attachment A to implement the Supreme Court holding in *McCloskey*. Note that all modifications are made in paragraph 2.D. Formula of the model DSIC tariff and pertain to Water, Wastewater, Electric Distribution, and Natural Gas Distribution Utilities. Neither EAP nor PGW are proposing modifications of the paragraphs which pertain to City Natural Gas Distribution Operations.

Initially, EAP proposes that ADIT be recognized and included in the Distribution System Improvement ("DSI") component of the formula. The EAP modification expands the definition of DSI to include the phrase "and associated accumulated deferred income taxes pertaining to property-related book/tax depreciation timing differences resulting from the use of accelerated depreciation per Internal Revenue Code, 26 U.S. Code § 168" at the end of the sentence to comply with the Supreme Court interpretation of Section 1301.1(a). 66 Pa. C.S. § 1301.1(a).

Second, State Tax Flow Through ("STFT") is included as a separate component and defined as the "pre-tax flow through calculated on book-tax timing differences between accelerated tax depreciation and book depreciation, net of federal tax". This additional component complies with the Court ruling by including state income tax deductions in the DSIC formula. An alternative option would be to include the STFT within the Pre-Tax Return Rate ("PTRR") component, by including STFT as part of the PTRR calculation. EAP suggests that the model DSIC tariff provide utilities with the option to include the alternative approach in their specific DSIC tariff. See, Attachment A.

Additionally, EAP proposes a technical modification to the definition of Projected Quarterly Revenue ("PQR") by substituting the word "applicable" for "existing" to account for the fact that the DSIC does not apply to all existing customers. EAP further proposes striking the phrase "plus netted revenue from any customers which will be gained or lost by the beginning of the applicable service period."

Finally, EAP includes a component "T" so as to account for the Pennsylvania Gross Receipts Tax as part of the DSIC formula for those utilities that pay a gross receipts tax. EAP proposes defining "T" as "[i]f applicable, Pennsylvania Gross Receipts Tax rate in effect during the billing month, expressed in decimal form."

**ii. Elements of the formula required for calculating quarterly DSIC updates needed to determine: (1) the state income tax effects of book-tax timing differences created by placing in service eligible property included in the DSIC calculation; and (2) ADIT that reflects the book-tax timing differences created by placing in service eligible property included in the DSIC, and to do so that such revisions to the formula for calculating the DSIC do not require unduly complicated computations but permit reasonable review and audit of DSIC charges and their supporting calculations.**

The EAP proposed modifications to the model DSIC tariff would address the state income tax and ADIT effects of book-tax depreciation timing differences created by placing in service eligible property in the DSIC calculation through the re-defined DSI and the STFT component included in the revised formula. See discussion above and Attachment A.

**iii. Determination of the revisions to the DSIC calculations and the potential refund/recoupment of overcharges dated back to August 2016, the date that Act 40 added Section 1301.1 to the Code:**

### 1. Should a refund/recoupment be required;

Neither EAP nor its members support a refund/recoupment requirement. Such a requirement would raise complex legal issues, including retroactive ratemaking and single-issue ratemaking, and was not addressed by the Supreme Court in *McCloskey*. EAP opines that unless the working group has a unanimous position, the legal issues involved here cannot be resolved in a working group setting and are more appropriately considered on a case-by-case basis.

Resolution of issues raised under this topic would involve a myriad of facts specific to individual utilities as well as re-consideration of final determinations in previous rate cases. For example, EAP notes that the DSIC mechanism allows utilities to recover reasonable and prudently incurred costs related to the repair, improvement and replacement of utility infrastructure on a timely basis without the necessity of filing frequent base rate cases. A utility may have: (1) chosen a different mechanism for recovery; (2) proposed different base rate case amounts related to Long-Term Infrastructure Improvement Plan ("LTIIP") investments; or (3) filed past rate cases at different (e.g., earlier) intervals if the proposed calculation was in effect at an earlier point in time as the proposed calculation reduces the DSIC rate. Similarly, some utilities may have under-recovered DSIC-eligible plant due to a DSIC rate cap that would have been recoverable under the cap had the ADIT been used to reduce the DSIC surcharge.

Given the concerns raised above, EAP believes that any resolution of the topics identified in points 2 – 4 listed below would necessarily rely on facts specific to individual utilities and must be addressed, if at all, on a case-by-case basis if it is first determined that a refund/recoupment is lawful. With respect to the fifth point below, EAP contends that any discussion of whether interest should be applied and at what rate, is not warranted at this point.

EAP and its members reserve the right to address these topics at a future point in this generic proceeding, if appropriate.

2. **Timing of any required refund/recoupment (When should the recoupment begin?);**

3. **Amortization period of any refund/recoupment;**

4. **Impact of the refund/recoupment on the utilities DSIC cap for each utility;**

5. **Should interest be applied, and if so, at what rate and the weighting for when interest is to be applied.**

iv. **Standards to establish a reconciliation process for timing differences and issues for determining the proper level of ADIT and state income taxes for book-tax timing issues created by placing in service eligible property included in the DSIC.**

The reconciliation of DSIC revenues and DSIC costs as stated in the revised model DSIC tariff is sufficient, no additional reconciliation is necessary. [7] The components of the quarterly DSIC calculation are based on eligible property placed in service and can be determined at the time of the DSIC rate filing, including the calculation of ADIT and STFT. EAP suggests that reconciliation of the book versus tax depreciation timing differences would not be necessary as such differences are already included in the DSIC calculation.

[7] EAP notes that there may be situations where reconciliation is warranted, e.g., bonus depreciation, and proposes that such instances be handled as they arise as opposed to the inclusion of a reconciliation process in the revised model DSIC tariff.

## III. CONCLUSION

EAP and its members support the use of a generic proceeding to develop a revised model DSIC tariff in compliance with the Pa. Supreme Court decision in *McCloskey v. Pa. PUC*, 255 A. 3d 416 (Pa. 2021) and proposes the adoption of the revisions in Attachment A. EAP looks forward to participating in the working group formed to address the topics identified in the April 22 Secretarial Letter issued by the Public Utility Commission.

Respectfully submitted,

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Date: July 22, 2022

# ATTACHMENT 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 to the extent of the PENNVEST funding or surcharge.]

**B. Eligible Property:** The DSIC-eligible property[1] 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 380) and insulated and non-insulated fittings (account 378);

[1 Whether a project is DSIC eligible is not controlled by the account number. The listing of projects and inclusion of account numbers in the model tariff is illustrative to emphasize that DSIC tariffs must reflect account numbers. The lists of property and account numbers in the model tariff are neither finite nor exclusive.

## DISTRIBUTION SYSTEM IMPROVEMENT CHARGE (DSIC)

- Valves (account 376);
- Excess flow valves (account 376);
- Risers (account 376);
- Meter bars (account 382);
- Meters (account 381);
- 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;

**DISTRIBUTION SYSTEM IMPROVEMENT CHARGE (DSIC)**

- Unreimbursed costs related to highway relocation projects where a wastewater utility must relocate its facilities; and
- Other related capitalized costs.

**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

**DISTRIBUTION SYSTEM IMPROVEMENT CHARGE (DSIC)**

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 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 customer for distribution service [**WATER and WASTEWATER UTILITIES ONLY:** for service] under the Utility's otherwise applicable rates and charges, excluding 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:

$$\text{DSIC} = \frac{(\text{DSI} * \text{PTRR} + \text{STFT}\cancel{)} + \text{Dep} + e}{\text{PQR} \qquad \cancel{\text{PQR}}}) \times 1/(1-T)$$

Where:

DSI = Original cost of eligible distribution system improvement projects net of accrued depreciation and associated accumulated deferred income taxes pertaining to property-related book/tax depreciation timing differences resulting from the use of accelerated depreciation per Internal Revenue Code, 26 U.S. Code § 168.

PTRR = Pre-tax return rate applicable to DSIC-eligible property.

Dep = Depreciation expense related to DSIC-eligible property.

STFT (State Tax Flow Through) = Pre-tax flow through calculated on book-tax timing differences between accelerated tax depreciation and book depreciation net of federal tax. **[NOTE: UTILITY MAY ELECT**

**DISTRIBUTION SYSTEM IMPROVEMENT CHARGE (DSIC)**

TO INCLUDE STFT CALCULATION IN THE PTRR COMPONENT.]

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 applicable~~existing~~ customers~~ plus netted revenue from any customers which will be gained or lost 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.]**

**[NOTE: The DSIC calculation does not factor in the plant of acquired troubled companies or the revenue of customers acquired from troubled companies until such plant and customer rates have been part of a base rate case by the acquiring utility.]**

T= If applicable, Pennsylvania Gross Receipts Tax rate in effect during the billing month, expressed in decimal form.

**[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:

**DISTRIBUTION SYSTEM IMPROVEMENT CHARGE (DSIC)**

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

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 netted revenue from any customers which will be gained or lost 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.

**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 or the utility may elect to subject the DSIC to quarterly reconciliation but only upon request and approval by the Commission. 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, or in the next quarter if permitted by the Commission. If DSIC revenues exceed DSIC-eligible

**DISTRIBUTION SYSTEM IMPROVEMENT CHARGE (DSIC)**

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. The utility is not permitted to accrue interest on under collections.

**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. The utility shall file a tariff supplement implementing the reset to zero due to overearning on one-day's notice and such supplement shall be filed simultaneously with the filing of the most recent Annual or Quarterly Earnings reports indicating that the Utility has earned a rate of return that would exceed the allowable rate of return used to calculate its fixed costs. **[NOTE: 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.~~

G. Residual E-Factor Recovery Upon Reset To Zero: The utility shall file with the Commission interim rate revisions to resolve the residual over/under collection or E-factor amount after the DSIC rate has been reset to zero. The utility can collect or credit the residual over/under collection balance when the DSIC rate is reset to zero. The utility shall refund any overcollection to customers and is entitled to recover any undercollections as set forth in Section 4.B. Once the utility determines the specific amount of the residual over or under collection amount after the DSIC rate is reset to zero, the utility shall file a tariff supplement with supporting data to address that residual amount. The tariff supplement shall be served upon the

## DISTRIBUTION SYSTEM IMPROVEMENT CHARGE (DSIC)

Commission's Bureau of Investigation and Enforcement, the Bureau of Audits, the Office of Consumer Advocate, and the Office of Small Business Advocate at least ten (10) days prior to the effective date of the supplement.

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