

**DEPARTMENT OF STATE  
PUBLIC SERVICE COMMISSION**

Statutory Authority: 26 Delaware Code, Section 209(a) (26 **Del.C.** §209(a))

**PROPOSED**

IN THE MATTER OF THE ADOPTION OF  
REGULATIONS GOVERNING  
ADMINISTRATION OF THE DISTRIBUTION  
SYSTEM IMPROVEMENT CHARGE  
AND THE UTILITY FACILITY RELOCATION  
CHARGE PROVIDED FOR IN 26 DEL.C.  
§§314 AND 315  
(OPENED JANUARY 31, 2012)

PSC REGULATION DOCKET NO. 63

**ORDER NO. 8103**

**AND NOW**, this 31st day of January, 2012:

**WHEREAS**, the General Assembly has enacted statutes creating a Water Utility Distribution System Improvement Charge ("DSIC") and a Utility Facility Relocation Charge ("UFRC") (26 **Del.C.** §§314 and 315); and

**WHEREAS**, 26 **Del.C.** §314(d) provides that the Delaware Public Service Commission (the "Commission") may adopt rules and regulations to administer the DSIC that are not inconsistent with the Public Utilities Act of 1974 (the "Act"); and

**WHEREAS**, 26 **Del.C.** §315(f) similarly provides that the Commission may adopt rules and regulations to administer the UFRC that are not inconsistent with the Act; and

**WHEREAS**, in Order No. 8011 dated August 9, 2011, the Commission directed its Staff to prepare proposed regulations to govern the administration and operation of the DSIC and UFRC; and

**WHEREAS**, in November 2011 Staff convened a workshop to which the Division of the Public Advocate and all utilities were invited to review proposed draft DSIC and UFRC regulations; and

**WHEREAS**, the Division of the Public Advocate and all utilities have had the opportunity to comment on the proposed regulations; and

**WHEREAS**, Staff has presented the Commission with proposed regulations; and

**WHEREAS**, the Commission has considered Staff's proposed regulations and objections thereto and finds that the proposed regulations should be proposed for public comment;

**NOW, THEREFORE, IT IS HEREBY ORDERED BY THE AFFIRMATIVE VOTE OF NO FEWER THAN THREE COMMISSIONERS:**

1. Pursuant to 26 **Del.C.** §209(a) and 29 **Del.C.** §10111 *et seq.*, the Commission promulgates the proposed Regulations Governing Administration of the Distribution System Improvement Charge and the Utility Facility Relocation Charge (the "Regulations").

2. The Commission Secretary shall transmit to the Registrar of Regulations for publication in the *Delaware Register* this Order, the Notice of the proposed Regulations attached hereto as Exhibit A and the proposed Regulations attached hereto as Exhibit B.

3. The Commission Secretary shall cause the Notice attached hereto as Exhibit A to be published in *The News Journal* and the *Delaware State News* newspapers on or before February 24, 2012.

4. The Commission Secretary shall cause the Notice attached hereto as Exhibit A to be sent by United States mail, first class postage prepaid, to all persons who have made written requests for advance notice of the Commission's regulation-making proceedings and to the following utilities:

- Artesian Water Company, Inc.
- Broadkilm Beach Water Co.
- Cantwell Water Co.
- Chesapeake Utilities Corporation
- Delmarva Power & Light Company
- Long Neck Water Co.
- Pickering Beach Water Co.
- Prime Hook Water Co.
- Slaughter Beach Water Co.
- Southern Shores Water Co.
- Sussex Shores Water Co.
- Tidewater Utilities, Inc.

- United Water Delaware Inc.
- Wilkerson Water Co.

Additionally, the Commission Secretary shall also send the Notice and the Regulations to the Division of the Public Advocate.

5. The public utilities identified in Paragraph 4 of this Order are hereby placed on notice that the costs of the proceedings will be charged to them under the provisions of 26 **Del.C.** §§114(b) (1) and (b) (4).

6. The Commission reserves the jurisdiction and authority to enter such further Orders in this matter as may be deemed necessary or proper.

BY ORDER OF THE COMMISSION:

Jeffrey J. Clark, Commissioner

Joann T. Conaway, Commissioner

Jaymes B. Lester, Commissioner

ATTEST:

Alisa Carrow Bentley, Secretary

### **EXHIBIT "A"**

#### **PUBLIC NOTICE OF COMMENT PERIOD ON PROPOSED REGULATIONS CONCERNING ADMINISTRATION OF THE WATER UTILITY DISTRIBUTION SYSTEM IMPROVEMENT CHARGE TO BE APPLIED TO WATER UTILITIES AND THE UTILITY FACILITY RELOCATION CHARGE APPLICABLE TO ELECTRIC AND NATURAL GAS DISTRIBUTION UTILITIES SUBJECT TO THE JURISDICTION OF THE DELAWARE PUBLIC SERVICE COMMISSION**

The Delaware General Assembly has enacted legislation pursuant to which water, electric distribution and natural gas distribution utilities subject to the jurisdiction of the Delaware Public Service Commission (the "Commission") may file rate schedules that allow such utilities to semiannually automatically adjust their basic rates to recover the cost of new, used and useful utility plant that meets certain eligibility criteria. See 26 **Del.C.** §§314 (Distribution System Improvement Charge, or "DSIC") and 315 (Utility Facility Relocation Charge, or "UFRC"). The legislation further provides that the Commission may adopt rules and regulations to administer the DSIC and UFRC so long as those rules and regulations are not inconsistent with the Public Utilities Act of 1974.

The Commission has promulgated proposed regulations to implement and administer the DSIC and UFRC (the "Regulations"), 26 **DE Admin. Code** 1009. The Regulations establish filing deadlines for DSIC/UFRC applications; effective dates of new DSIC/UFRC rates; requirements for filing a DSIC/UFRC application; a review and approval process; and annual reconciliation and audit procedures.

The Commission has the authority to promulgate the Regulations pursuant to 26 **Del.C.** §§209(a), 314(d), 315(f) and 29 **Del.C.** c. 101.

The Commission hereby solicits written comments, suggestions, compilations of data, briefs or other written materials concerning the Regulations. Anyone submitting any written materials must file ten (10) copies of such material with the Commission at its office located at 861 Silver Lake Boulevard, Suite 100, Dover, DE 19904. **All such materials shall be filed with the Commission on or before March 31, 2012.** Persons who wish to participate in the proceedings but who do not intend to file written materials shall inform the Commission in writing of their intent to participate on or before March 31, 2012. Such notice shall be sent to the attention of Staff Public Utilities Analyst Dr. Vincent Ikwuagwu.

Any public hearing conducted by the Commission shall be duly noticed in accordance with 29 **Del.C.** §§10115(b).

The Regulations and any materials submitted in connection therewith will be available for public inspection and copying (to the extent they are "public records" under the Freedom of Information Act, 29 **Del.C.** §10002(g)) at the Commission's Dover office identified above during normal business hours. The fee for copying is \$.10 per page, with the first 20 pages being free of charge. If you wish to request copies of documents in this matter, please submit a Freedom of Information Act Request Form. This form may be found at <http://smu.portal.delaware.gov/cgi-bin/mail.php?foia-request&subj=DOS>. There is also a link to the Freedom of Information Act Request Form on the Commission's website, <http://depssc.delaware.gov/default.shtm>. The Commission will respond to your request in accordance with the Freedom of Information Act, 29 **Del.C.** ch. 100. The Regulations may also be reviewed by appointment at the office of the Public Advocate, 820 N. French Street, 4<sup>th</sup> Floor, Carvel State Office Building, Wilmington, DE 19801. The Regulations will also be available on the Commission's website: <http://depssc.delaware.gov>.

Any individual with disabilities who wishes to review submissions or to participate in this docket should contact the

Commission to discuss any auxiliary aids or services to facilitate such review or participation. Such contact may be in person, in writing, by telephone or otherwise. The Commission's toll-free telephone number in Delaware is (800) 282-8574. Any person with questions may contact Dr. Ikwuagwu at (302) 736-7524, by voice and/or Text Telephone at (302) 736-7500, or via electronic mail at [vincent.ikwuagwu@state.de.us](mailto:vincent.ikwuagwu@state.de.us).

**EXHIBIT "B"**  
**DELAWARE PUBLIC SERVICE COMMISSION**  
**REGULATIONS IMPLEMENTING THE WATER UTILITY DISTRIBUTION SYSTEM IMPROVEMENTS CHARGE**  
**("DSIC")**  
**AND THE UTILITY FACILITY RELOCATION CHARGE ("UFRC")**  
**JANUARY 31, 2012**

**1009 Regulations Implementing the Water Utility Distribution System Improvement Charge ("DSIC") and the Utility Facility Relocation Charge ("UFRC")**

**1.0 General**

- 1.1 Authority. These regulations are adopted pursuant to 26 **Del.C.** §§209(a), 314(d) and 315(f) and 29 **Del.C.** ch. 101.
- 1.2 Purpose. The purpose of these regulations is to standardize the format utilities shall use to present financial and operating data that support the recovery of eligible capital improvements costs, made pursuant to 26 **Del.C.** §§314 and 315.
- 1.3 Capitalized Terms. Capitalized terms used herein that are defined in 26 **Del.C.** §§314 and 315 shall have the same meaning as they have in those sections. Other capitalized terms shall have the meaning ascribed to them in these regulations.

**2.0 Effective Date and Recovery Period**

- 2.1 A utility may initiate or seek a change in its DSIC or UFRC rate by filing an application and supporting schedules as required by these Regulations with the Commission to be effective on January 1<sup>st</sup> or July 1<sup>st</sup> of each year. Applications shall be filed with the Commission at least 30 days prior to the effective date.
- 2.2 New DSIC and UFRC rates shall be effective for bills rendered on and after January 1 and July 1 each year without proration.
- 2.3 The DSIC rate shall be adjusted semi-annually for Eligible Distribution System Improvements placed in service during the six-month period ending two months prior to the effective date. For a January 1 effective date, the applicable recovery period is May 1 through October 31; for a July 1 effective date, the applicable recovery period is November 1 through April 30.
- 2.4 The UFRC rate shall be adjusted semi-annually for Eligible Utility Facility Relocations occurring during the six-month period ending two months prior to the effective date. For a January 1 effective date, the applicable recovery period is May 1 through October 31; for a July 1 effective date, the applicable recovery period is November 1 through April 30.
- 2.5 The DSIC/UFRC rate shall be reset to zero as of the effective date of new base rates that provide for the prospective recovery of the annual costs theretofore recovered under the DSIC/UFRC rate.
- 2.6 Utilities may file DSIC/UFRC applications while a base rate case is pending; however, where the application includes Eligible Distribution System Improvements or Eligible Utility Facility Relocations that fall within the utility's selected test period in the base rate case, the utility shall demonstrate in the DSIC/UFRC application that the Eligible Distribution System Improvements or Eligible Utility Facility Relocations were not included in the test period rate base.

**3.0 Filing Requirements**

- 3.1 Each DSIC / UFRC filing shall include the following information:
  - 3.1.1 A PSC filing cover sheet (which can be found at the Commission website);
  - 3.1.2 A cover letter from the utility;
  - 3.1.3 The appropriate filing fee as required by 26 **Del.C.** §114(a);
  - 3.1.4 An original application and five (5) copies (Staff reserves the right to request additional copies), which shall include:
    - 3.1.4.1 A request to place rates into effect in no less than thirty (30) days from the date of the application;
    - 3.1.4.2 The new DSIC/UFRC rate expressed as a percentage carried to two (2) decimal places; and

- 3.1.4.3 The dollar amount and percentage of the proposed DSIC/UFRC rate change.
- 3.1.5 The identification of a utility contact person responsible for the application.
- 3.1.6 A DSIC / UFRC Application shall include the following schedules:
  - 3.1.6.1 Schedule 1: Development of rate and supporting data (see Form 1);
  - 3.1.6.2 Schedule 1A: Capital structure approved in the utility's most recent base rate/general rate case (see Form 2);
  - 3.1.6.3 Schedule 1B: Overcollections or Undercollections from the utility's previous DSIC/UFRC filing (see Form 3);
  - 3.1.6.4 Schedule 2 (see Form 4):
    - 3.1.6.4.1 For DSIC Filings: Net cost of projects (identified by utility's internal project number) placed into service, and unreimbursed plant additions and plant retired, for the appropriate DSIC filing period.
    - 3.1.6.4.2 For UFRC Filings: Identification (by utility's internal project number) of relocated unreimbursed utility plant or facilities and plant retired for the appropriate UFRC filing period.
  - 3.1.6.5 Schedule 2A: Net Accumulated Depreciation, identified by NARUC account number for DSIC Filings and by FERC USOA account number for UFRC Filings (see Form 5);
  - 3.1.6.6 Schedule 3: Revised tariff page(s). Additions should be indicated by underlining; deletions should be indicated by strikethroughs.
- 3.2 The utility shall serve the Division of the Public Advocate's office with a copy of the Filing at the same time that the utility files the Filing with the Commission.
- 3.3 The utility shall notify its customers of changes in the DSIC or UFRC rate by including appropriate information in the first bill that customers receive following any change in the DSIC or UFRC rate. A message printed directly on the bill shall be acceptable notice.

#### **4.0 Review and Approval Procedure**

- 4.1 Staff will review each utility's DSIC/UFRC application to ensure compliance with the provisions of 26 Del.C. §§314 and 315 and these regulations. Staff has five (5) days to review a Filing for compliance.
- 4.2 Staff shall notify the utility of any defect(s) in its Filing within five (5) business days of its submission to the Commission. The utility shall have five (5) business days to correct such defect(s) and resubmit the Filing.
- 4.3 Within five (5) business days of a utility's Filing, Staff and the Division of the Public Advocate may issue data requests to the utility concerning the Filing. Staff will attach a Certificate of Service identifying the person upon whom electronic service was made. Such data requests shall be deemed served if sent to the utility's identified representative(s) via electronic mail at the correct electronic mail address.
- 4.4 The utility shall submit its written responses to any data requests issued by Staff and/or the Division of the Public Advocate to the Staff analyst, Staff counsel, and the Division of the Public Advocate within five (5) business days of their receipt.
- 4.5 As soon as reasonably practicable, but in no event fewer than seven (7) calendar days before the Commission meeting at which the Filing is scheduled for consideration, Staff shall advise the utility in writing whether it intends to recommend that the Commission approve or deny the Filing. If Staff will recommend that the Commission deny the Filing, Staff shall fully set forth its reasons therefore. Staff shall also provide its recommendation to the Commission in writing.
- 4.6 The Filing will be scheduled for consideration at the Commission meeting that is the closest meeting prior to the thirty (30) day deadline. If Staff has recommended that the Commission deny the Filing, the utility will be permitted to submit evidence contesting that recommendation.
- 4.7 Upon Commission approval of the Filing, the DSIC/UFRC rate will be implemented pending the year-end Staff audit discussed in Section 6.

#### **5.0 DSIC/UFRC and Customer Bills**

- 5.1 The DSIC/UFRC charge shall be broken out as a separate line item on customers' bills.
- 5.2 The DSIC/UFRC rate shall be expressed as a percentage carried out to two (2) decimal places.
- 5.3 The DSIC shall be applied to the total amount billed to each customer under the utility's applicable water rates and charges.
- 5.4 The UFRC shall be applied to the portion of the customer's charge related to the delivery or distribution of natural gas or electricity.

5.5 The DSIC/UFRC rate applied between base rate filings shall be capped at 7.5% of the amount billed to customers under otherwise applicable rates and charges. The DSIC/UFRC rate increase applied shall not exceed 5% within any twelve (12)-month period. With respect to any UFRC rate filed by any electric or natural gas utility, the aforesaid level of increase, consistent with 26 Del.C. §315(c), is limited to the portion of the customer's charge related to the delivery or distribution of natural gas or electricity.

**6.0 Annual Reconciliation and Audit**

6.1 DSIC and UFRC rates shall be subject to an annual reconciliation based on a period consisting of the twelve months ending December 31 of each year.

6.2 DSIC and UFRC rates shall be subject to audit by the Staff. Such audits will be conducted between February and May of each year. Staff will visit the utility's Delaware administrative offices to review the utility's documents. The utility must make staff available to assist with the field audit.

6.3 Discovery.

6.3.1 Staff may issue data requests to the utility during the annual audit to obtain information regarding but not limited to:

6.3.1.1 Whether the plant included in the calculation of the proposed DSIC/UFRC was an Eligible Distribution System Improvement or an Eligible Utility Facility Relocation;

6.3.1.2 Whether the utility used the correct depreciation and cost of capital rates in the calculation;

6.3.1.3 Whether the utility correctly accounted for all retirements corresponding to the Eligible Distribution System Improvement or the Eligible Utility Facility Relocation;

6.3.1.4 Whether the approved DSIC/UFRC rate was applied correctly to customers' bills; and

6.3.1.5 Whether any over- or undercollections were properly reflected in the calculation of the DSIC/UFRC rates.

6.3.2 26 DE Admin. Code §1001-2.6.6 shall govern the deadline for responses to such data requests.

**FORM 1**

**SCHEDULE 1: DEVELOPMENT OF RATE AND SUPPORTING DATA**

	<u>Item</u>	<u>11/1/XXXX-4/30/XXXX</u>
1	<u>Net Utility Plant Additions (Schedule 1A and Schedule 2)</u>	<u>\$</u>
2	<u>Net Accumulated Depreciation Reserve Change (Schedule 2A)</u>	<u>\$</u>
3	<u>Net Change in Rate Base (Line 1 + Line 2)</u>	<u>\$</u>
4	<u>Pre-Tax Rate of Return (Schedule 1A)</u>	<u>___%</u>
5	<u>Semi-Annual Pre-Tax Rate of Return (Line 4/ 2)</u>	<u>___%</u>
6	<u>Semi-Annual Investment Cost Recovery (Line 3 * Line 5)</u>	<u>\$</u>
7	<u>Semi-Annual Depreciation Expense (Schedule 2A)</u>	<u>\$</u>
8	<u>Semi-Annual DSIC/UFRC Revenue Requirement (Line 6 + Line 7)</u>	<u>\$</u>
8A	<u>Total Over-/Undercollection from Previous DSIC/UFRC (Schedule 1B)</u>	<u>\$</u>
9	<u>Total Semi-Annual DSIC/UFRC Revenue Requirement (Line 8 + Line 8A)</u>	<u>\$</u>
10	<u>Semi-Annual Projected Total Revenues (for DSIC)</u> <u>Semi-Annual Projected Distribution Revenues (for UFRC)</u>	<u>\$</u>
11	<u>Projected DSIC/UFRC Rate Increase (Line 9/Line 10)</u>	<u>___%</u>

**FORM 2**

**SCHEDULE 1A: CAPITAL STRUCTURE APPROVED IN MOST RECENT GENERAL/BASE RATE CASE**

<u>Capital Structure in PSC Docket No. XX-XXX</u>					
	<u>%</u>	<u>Cost</u>	<u>Weighted Cost</u>	<u>Revenue Multiplier</u>	<u>Pre-Tax Cost</u>
<u>Cost of Debt</u>	<u>XX.XX%</u>	<u>X.XX%</u>	<u>X.XX%</u>	<u>X.XXXXX</u>	<u>X.XX%</u>

Cost of Equity	XX.XX%	X.XX%	X.XX%	X.XXXXX	X.XX%
	100%		X.XX%		X.XX%

**FORM 3**

**SCHEDULE 1B: OVER/UNDERCOLLECTIONS FROM PREVIOUS DSIC/UFRC FILINGS**

Docket No.	Over/(Under)Collection
XX-XXX	\$ _____
XX-XX	\$ _____

**FORM 4**

**SCHEDULE 2: PROJECTS PLACED INTO SERVICE AND/OR RETIRED**

<u>Utility Plant in Service 11/1/XX – 4/30/XX</u>				
Project Name	Description	Project No.	DSIC/UFRC Amount(net of CIAC)	Retirement Cost
Rt. 13 Street Widening	Relocate water/gas main	XXXXX	\$ _____	\$ _____
Rt. 7 mall construction	Relocate gas line	XXXXX	\$ _____	\$ _____
I-95 lane addition	Relocate gas line	XXXXX	\$ _____	\$ _____
Old North Rd. repair	Relocate meter	XXXXX	\$ _____	\$ _____
New Street road repair	Relocate meter	XXXXX	\$ _____	\$ _____
Total			\$ _____	\$ _____
Net Total			\$ _____	

**FORM 5**

**SCHEDULE 2A: NET ACCUMULATED DEPRECIATION**

<u>Net Additions to Plant and Depreciation Expense 11/1/XX – 4/30/XX</u>				
Account Name	FERC/NARUC Account No.	Amount	Depreciation Rate	Depreciation Amount
Mains	XXXXX	\$ _____	X.XX%	\$ _____
Meters	XXXXX	\$ _____	X.XX%	\$ _____
Lines	XXXXX	\$ _____	X.XX%	\$ _____
TOTAL		\$ _____ (Schedule 2)		\$ _____
Semi-Annual Depreciation Expense				\$ _____

<u>Accumulated Depreciation Reserve Change</u>	
Semi-Annual Depreciation Expense (above)	\$ (_____)
Retirements (Schedule 2)	\$ _____
TOTAL	\$ _____