

**DEPARTMENT OF STATE  
PUBLIC SERVICE COMMISSION**

Statutory Authority: 26 Delaware Code, Section 315 (26 **Del.C.** §315)

**PROPOSED**

**PUBLIC NOTICE**

**1010 Regulations Governing the Administration of the Electric and Natural Gas Utility Distribution System Improvement Charge ("DSIC")**

IN THE MATTER OF THE ADOPTION OF  
REGULATIONS GOVERNING ADMINISTRATION OF  
THE ELECTRIC AND NATURAL GAS UTILITY  
DISTRIBUTION SYSTEM IMPROVEMENT CHARGE  
PROVIDED FOR IN 26 *DEL. C.* §315 (OPENED  
OCTOBER 9, 2018)

||  
PSC REGULATION DOCKET NO. 64

**PUBLIC NOTICE OF PROPOSED REGULATIONS**

The Delaware General Assembly has enacted legislation pursuant to which electric distribution and natural gas distribution utilities subject to the jurisdiction of the Delaware Public Service Commission (the "Commission") may file, on a semiannual basis, proposed rate schedules establishing a Distribution System Improvement Charge ("DSIC") rate that provides such utilities the opportunity to recover the cost of new, used and useful utility plant that meets certain eligibility criteria. See 26 **Del.C.** §315 (Electric and Natural Gas Utility Distribution System Improvement Charge). The legislation further provides that the Commission may adopt rules and regulations to administer the DSIC 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 (the "Proposed Regulations"), 26 *Del. Admin. Code* ch. 1010. The Proposed Regulations establish filing deadlines for DSIC applications; effective dates of new DSIC rates; requirements for filing a DSIC application; a review and approval process; and annual reconciliation and audit procedures.

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

The Commission hereby solicits written comments, suggestions, and compilations of data, briefs, or other written materials concerning the Proposed Regulations. Anyone submitting any written materials must email such materials to Joshua Bowman at [Joshua.Bowman@state.de.us](mailto:Joshua.Bowman@state.de.us) on or before December 3, 2018.

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

Copies of the Proposed Regulations may be obtained from the Commission office at 861 Silver Lake Blvd, Suite 100, Dover, DE 19904. The Proposed Regulations will also be available on the Commission's website: <https://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. You may also make inquiries by voice telephone at 302-736-7500 or by internet email at [Joshua.Bowman@state.de.us](mailto:Joshua.Bowman@state.de.us).

**ORDER NO. 9282**

**AND NOW**, this 9<sup>th</sup> day of October, 2018:

**WHEREAS**, the General Assembly has enacted statutes creating an Electric and Natural Gas Utility Distribution System Improvement Charge ("DSIC") (26 **Del.C.** §315); and

**WHEREAS**, 26 **Del.C.** §315(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**, Staff has presented the Commission with proposed regulations; and

**WHEREAS**, the Commission has considered Staff's proposed regulations 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, THAT:**

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 Electric and Natural Gas Utility Distribution System Improvement Charge (the

"Proposed 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 November 1, 2018.

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:

- Chesapeake Utilities Corporation
- Delmarva Power & Light Company

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

5. The Proposed Regulations shall govern the administration of the DSIC for any applications filed pursuant to 26 **Del.C.** §315 until this Commission approves such final regulations.

6. 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).

7. 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:**

Dallas Winslow, Chairman

Joann T. Conaway, Commissioner

Harold B. Gray, Commissioner

Manubhai C. Karia, Commissioner

K. F. Drexler, Commissioner

ATTEST: Donna Nickerson, Secretary

**1010 Regulations Governing the Administration of the Electric and Natural Gas Utility Distribution System Improvement Charge ("DSIC")**

**1.0 General**

- 1.1 Authority. These regulations are adopted pursuant to 26 **Del.C.** §§209(a) and 315(d), 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.** §315.
- 1.3 Capitalized Terms. Capitalized terms used herein that are defined in 26 **Del.C.** §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 rate by filing an application ("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 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 DSIC rate shall be reset to zero as of the effective date of new base rates, including interim base rates under bond during a base rate case, that provide for the prospective recovery of the annual costs theretofore recovered under the DSIC rate.
- 2.5 Utilities may file DSIC Applications while a base rate case is pending; however, the Application shall not include Eligible Distribution System Improvements that fall within the utility's selected test period in the base rate case.

**3.0 Filing Requirements**

- 3.1 Each DSIC Application 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, 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 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 rate change.
  - 3.1.5 The identification of a utility contact person responsible for the Application.
  - 3.1.6 A DSIC 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: Over-collections or Under-collections from the utility's previous DSIC filing (see Form 3);
    - 3.1.6.4 Schedule 2: 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 (see Form 4);
    - 3.1.6.5 Schedule 2A: Net Accumulated Depreciation, identified by FERC USOA account number (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 Application at the same time that the utility files the Application with the Commission.
- 3.3 The utility shall notify its customers of changes in the DSIC rate by including appropriate information in the first bill that customers receive following any change in the DSIC rate. A message printed directly on the bill shall be acceptable notice.

#### **4.0 Determining Distribution System Improvement Eligibility**

- 4.1 For Applications premised on 26 Del.C. §315(a)(4)c.1., the Application shall:
  - 4.1.1 Include a description of which distribution facilities being replaced have reached their useful service life and are fully depreciated;
  - 4.1.2 Include a description of which distribution facilities being replaced are worn out or are in a deteriorated condition, and:
    - 4.1.2.1 The utility shall include the method(s) and criteria used in determining that the distribution facilities being replaced are worn out;
    - 4.1.2.2 The utility shall include the method(s) and criteria used in determining that the distribution facilities being replaced are in such a deteriorated condition that replacement of those facilities is required;
  - 4.1.3 For Electric Distribution Companies ("EDC"), an Application premised on 26 Del.C. §315(a)(4)c.1. for distribution facilities being replaced or renewed because they are negatively impacting the quality and reliability of service to the customer, eligibility shall be determined only if the distribution facility being replaced satisfies at least one of the following criteria:
    - 4.1.3.1 The distribution facility being replaced is part of a distribution feeder which has been identified by the EDC in the most recent Annual Performance Report filed with the Commission as one of the 2% of distribution feeders or 10 feeders, whichever is more, serving at least one Delaware customer, as having the poorest reliability;
    - 4.1.3.2 The distribution facility being replaced is part of a distribution feeder which, according to the most recent Annual Performance Report filed with the Commission by the EDC, has at least two of the three reliability indices (SAIFI, CAIDI, SAIDI) that exceeds the levels stated in paragraph 82 of the amended settlement agreement in PSC Docket No. 14-193, specifically, SAIDI exceeding 175 minutes, SAIFI exceeding 1.5, and CAIDI exceeding 120 minutes.
- 4.2 For Applications premised on 26 Del.C. § 315(a)(4)c.2., eligibility shall be determined in the same manner as subsection 4.1.3 above.

#### **5.0 Review and Approval Procedure**

- 5.1 Staff will review each utility's DSIC Application to ensure compliance with the provisions of 26 Del.C. §315 and these regulations. Staff has five (5) days to review the Application for compliance.
- 5.2 Staff shall notify the utility of any defect(s) in its Application 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 Application.
- 5.3 Within five (5) business days of a utility's submission of an Application, Staff and the Division of the Public Advocate may issue data requests to the utility concerning the Application. Staff and/or the Division of the Public Advocate 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.
- 5.4 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.
- 5.5 As soon as reasonably practicable, but in no event fewer than seven (7) calendar days before the Commission meeting at which the Application is scheduled for consideration, Staff shall advise the utility in writing whether it intends to recommend that the Commission approve or deny the filing of the Application. If Staff will recommend that the Commission deny the Application, Staff shall fully set forth its reasons therefore. Staff shall also provide its recommendation to the Commission in writing.
- 5.6 The Application will be scheduled for consideration at the Commission meeting that is the closest meeting prior to the effective date of the new DSIC rate. If Staff has recommended that the Commission deny the Application, the utility will be permitted to submit evidence contesting that recommendation.
- 5.7 Upon Commission approval of the Application, the DSIC rate will be implemented pending the year-end Staff audit discussed in Section 7.0.

## **6.0 DSIC and Customer Bills**

- 6.1 The DSIC charge shall be broken out as a separate line item on customers' bills.
- 6.2 The DSIC rate shall be expressed as a percentage carried out to two (2) decimal places.
- 6.3 The DSIC shall be applied to the portion of the customer's bill related to the delivery or distribution of natural gas or electricity.
- 6.4 The DSIC 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 rate increase applied shall not exceed 5% within any twelve (12)-month period. The aforesaid level of increase is limited to the portion of the customer's charge related to the delivery or distribution of natural gas or electricity.

## **7.0 Annual Reconciliation and Audit**

- 7.1 DSIC rates shall be subject to an annual reconciliation based on a period consisting of the twelve months ending December 31 of each year.
- 7.2 DSIC rates shall be subject to audit by the Staff. Such audits will be conducted between February and May of each year. Staff, if it deems necessary, 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.
- 7.3 Discovery.
  - 7.3.1 Staff may issue data requests to the utility during the annual audit to obtain information regarding but not limited to:
    - 7.3.1.1 Whether the plant included in the calculation of the proposed DSIC was an Eligible Distribution System Improvement;
    - 7.3.1.2 Whether the utility used the correct depreciation and cost of capital rates in the calculation;
    - 7.3.1.3 Whether the utility correctly accounted for all retirements corresponding to the Eligible Distribution System Improvement;
    - 7.3.1.4 Whether the approved DSIC rate was applied correctly to customers' bills; and
    - 7.3.1.5 Whether any over- or under-collections were properly reflected in the calculation of the DSIC rates.
  - 7.3.2 26 DE Admin. Code 1001 - 2.6.6 shall govern the deadline for responses to such data requests.
- 7.4 Unless otherwise extended by action of the General Assembly, upon termination of the electric and natural gas distribution system improvement charge on June 14, 2025, the DSIC rate will go to zero and no over-/under-collections will carry forward. However, upon the audit of the final DSIC rate, if any distribution system

improvements included are determined to be ineligible, the over-collection(s) associated with such ineligible distribution system improvements shall be refunded with interest to customers.

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

	<u>Item</u>	<u>(11/1/XX - 4/30/XX) /</u> <u>(5/1/XX - 10/31/XX)</u>
1	Net Utility Plant Additions (Schedule 2)	\$
2	Net Accumulated Depreciation Reserve Change (Schedule 2A)	\$
3	Net Change in Rate Base (Line 1 + Line 2)	\$
4	Pre-Tax Rate of Return (Schedule 1A)	%
5	Semi-Annual Pre-Tax Rate of Return (Line 4 / 2)	%
6	Semi-Annual Investment Cost Recovery (Line 3 * Line 5)	\$
7	Semi-Annual Depreciation Expense (Schedule 2A)	\$
8	Semi-Annual DSIC Revenue Requirement (Line 6 + Line 7)	\$
8A	Total Over-/Under-Collection from Previous DSIC (Schedule 1B)	\$
9	Total Semi-Annual DSIC Revenue Requirement (Line 8 + Line 8A)	\$
10	Semi-Annual Projected Distribution Revenues	\$
11	Projected DSIC Rate Increase (Line 9/Line 10)	%

**FORM 2**  
**SCHEDULE 1A: CAPITAL STRUCTURE APPROVED IN MOST RECENT GENERAL/BASE RATE CASE**

<u>Capital Structure in PSC Docket No. XX-XXXX</u>					
	<u>%</u>	<u>Cost</u>	<u>Weighted Cost</u>	<u>Revenue Multiplier</u>	<u>Pre-Tax Cost</u>
Cost of Debt	XX.XX%	X.XX%	X.XX%	X.XXXXX	X.XX%
Cost of Equity	XX.XX%	X.XX%	X.XX%	X.XXXXX	X.XX%
	100%		X.XX%		X.XX%

**FORM 3**  
**SCHEDULE 1B: OVER-/UNDER-COLLECTIONS FROM PREVIOUS DSIC APPLICATION**

<u>Docket No.</u>	<u>Over/(Under)Collection</u>
XX-XXXX	\$ _____
XX-XXXX	\$ _____

**FORM 4**  
**SCHEDULE 2: PROJECTS PLACED INTO SERVICE AND/OR RETIRED**

<u>Utility Plant in Service (11/1/XX - 4/30/XX) / (5/1/XX - 10/31/XX)</u>				
<u>Project Name</u>	<u>Description</u>	<u>Project No.</u>	<u>DSIC Amount (net of CIAC)</u>	<u>Retirement Cost</u>
		XXXXX	\$ _____	\$ _____
		XXXXX	\$ _____	\$ _____
		XXXXX	\$ _____	\$ _____
		XXXXX	\$ _____	\$ _____
		XXXXX	\$ _____	\$ _____
<u>Total</u>			\$ _____	\$ _____
<u>Net Total</u>			\$ _____	\$ _____

**FORM 5**  
**SCHEDULE 2A: NET ACCUMULATED DEPRECIATION**

Net Additions to Plant and Depreciation Expense (11/1/XX – 4/30/XX) / (5/1/XX – 10/31/XX)				
Account Name	FERC 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				\$ _____

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

22 DE Reg. 381 (11/01/18) (Prop.)