**PENNSYLVANIA**

**PUBLIC UTILITY COMMISSION**

**Harrisburg, PA 17105-3265**

Public Meeting held November 9, 2016

Commissioners Present:

Gladys M. Brown, Chairman

Andrew G. Place, Vice Chairman

John F. Coleman, Jr.

Robert F. Powelson

David W. Sweet

|  |  |
| --- | --- |
| Petition of UGI Utilities, Inc. – Gas Division for  Approval of a Distribution System Improvement Charge | P-2013-2398833 |
| Office of Consumer Advocate v. UGI Utilities, Inc. – Gas Division | C-2016-2540745 |

**OPINION AND ORDER**

**BY THE COMMISSION:**

Before the Commission for consideration is the Petition for approval of the Distribution System Improvement Charge (DSIC) of UGI Utilities, Inc. – Gas Division (UGI or Company).

**HISTORY OF THE PROCEEDING**

UGI – a wholly owned subsidiary of UGI Corporation – is a corporation organized and existing under the laws of the Commonwealth of Pennsylvania. UGI is in the business of selling and distributing natural gas 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. UGI, as a natural gas distribution company (NGDC), provides natural gas service to approximately 379,000 residential, commercial, and industrial customers in all or portions of 15 Eastern and Central Pennsylvania Counties. UGI provides service through approximately 5,700 miles of mains that it owns, operates and maintains.

On December 12, 2013, UGI filed a petition with the Commission seeking approval of its Long Term Infrastructure Improvement Plan (LTIIP), with copies being served upon the statutory advocates in accordance with the *Implementation of Act 11 of 2012*, Docket No. M‑2012‑2293611 (August 2, 2012) (Final Implementation Order). The Company’s LTIIP was approved by the Commission on July 9, 2014. On February 29, 2016, UGI filed a petition to modify its exiting LTIIP by increasing total projected spending over the life of the LTIIP by 44% (Modified LTIIP). The Company’s Modified LTIIP was approved by the Commission on June 30, 2016.

On March 31, 2016, UGI filed a petition to establish and implement a DSIC. UGI’s DSIC Petition (the “Petition”) includes a ProForma Tariff Addendum to Gas – Pa. P.U.C. No. 5 to introduce the DSIC Rider into the Company’s tariff with an effective date of January 1, 2017 and an effective rate of 0.0%. The filing was made pursuant to 66 Pa. C.S. § 1353 and the Final Implementation Order.

On April 19, 2016, the Office of Consumer Advocate (OCA) filed a Formal Complaint (Docket No. C-2016-2540745), Public Statement, Notice of Intervention, and Answer to the Petition. In its Formal Complaint, OCA states that the Commission should refer the matter to the Office of Administrative Law Judge (OALJ) for hearing and disposition. In OCA’s Answer, it raises concerns about the costs proposed for recovery under the category of “other capitalized costs” and the treatment of gathering and storage lines as distribution property eligible for DSIC recovery, and states that the Commission should deny UGI’s Petition and ProForma Tariff Addendum to Gas – Pa. P.U.C. No. 5 as filed.

On April 20, 2016, the Office of Small Business Advocate (OSBA) filed a Notice of Intervention and Public Statement. OSBA did not allege that any particular provision or relief requested by UGI should be denied.

On May 6, 2016, the Bureau of Investigation and Enforcement (I&E) filed a Notice of Appearance in the proceeding.

On May 9, 2016, the UGI Industrial Intervenors (UGIII) filed a Petition to Intervene and Answer[[1]](#footnote-1). In its Answer, UGIII expresses concern over UGI having sole discretion in determining whether a customer is DSIC-eligible and believes that the DSIC language should specify exact rate schedule classes for exclusion from the DSIC. UGIII requests that the Commission initiate hearings to evaluate the issues it raised.

On May 9, 2016, UGI filed an Answer to the Formal Complaint of the OCA, denying that the OCA is entitled to the relief requested and asking that its Complaint at Docket No. C-2016-2540745 be dismissed.

A Letter expressing opposition to the UGI DSIC was received from one individual customer, who argued against implementation of a DSIC.

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),[[2]](#footnote-2) 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 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.[[3]](#footnote-3)

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

Section 1353 requires utilities seeking approval of a DSIC to file a petition 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 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.

UGI’s petition addresses each of the elements listed in the statute, as detailed below.

**(1) Tariff Filing**

Section 1353 requires utilities to file an initial tariff that complies with the Model Tariff adopted by the Commission. UGI’s ProForma Tariff Addendum to Gas – Pa. P.U.C. No. 5 (Proposed Tariff) closely reflects the language of the Model Tariff. However, UGI shall make any and all tariff sufficiency modifications necessary to be in compliance with the Commission’s Supplemental Implementation Order entered on September 21, 2016 at Docket No. M‑2012‑2293611. We shall review each item in turn.

1. **Eligible Property**

**UGI’s Petition**

UGI designates the same property as DSIC-eligible as it included in its LTIIP and as per the Model Tariff, including: piping; couplings; gas service lines; valves; fittings; risers; meter bars; meters; unreimbursed costs related to highway relocation projects; gathering lines; storage lines; transmission lines; and other related capitalized costs.

UGI has proposed including “other related capitalized costs” as part of its LTIIP that would be eligible for DSIC recovery. Those other categories include: regulator stations and equipment; electronic systems and software; and vehicles, tools and power equipment.

**Comments**

As to the issue of eligible property, OCA raises a couple of concerns. First, OCA questions the appropriateness of including gathering lines and storage lines as DSIC-eligible property, noting that DSIC recovery is limited to property that is part of a utility’s distribution system, and that it is not clear from the Petition that gathering and storage lines serve a distribution function. Second is the issue of “other related capitalized costs”, which OCA says needs to be reviewed to ensure that the costs incurred during normal course of business, independent of DSIC-eligible projects, are not recovered through the DSIC. OCA submits that these costs should be reviewed on a case by case basis as to their eligibility for DSIC recovery and should not be approved for recovery in this proceeding.

**Resolution**

Eligible property for NGDCs is defined in Section 1351, 66 Pa. C.S. § 1351(2). UGI claims that it currently has no gathering or storage lines on its system, nor does it have plans to own such facilities in the immediate future; however, were it to add such facilities, and those facilities were used for distribution purposes, then their repair and replacement would fit within the definition provided by Section 1351 and should be allowed for recovery under the DSIC. When it comes to the elements of “other related capitalized costs”, UGI claims that such items are necessary for the locating, repairing, and replacing of aging infrastructure on an accelerated basis, and as such, qualify as reasonable and prudent costs to be recovered through the DSIC. The Company further states that it cannot undertake its substantial repair and replacement program without appropriate equipment, and that only those capital expenditures used exclusively for work that qualifies for recovery under the DSIC will be included. UGI will not seek to include equipment that is used in the normal course of business and is unrelated to DSIC-eligible projects.

As to the issues raised by OCA, we note that the Commission has already ruled on both matters in the UGI Penn Natural Gas, Inc. (UGI-PNG) and UGI Central Penn Gas, Inc. (UGI-CPG) DSIC proceedings at Docket Nos. P‑2013‑2397056 and P‑2013‑2398835, respectively. At Public Meeting held July 8, 2015, the Commission adopted the Recommended Decision issued on May 15, 2015, whereby the Joint Petition for Settlement between UGI-PNG and OCA was approved in its entirety. In that settlement, the following terms were agreed to regarding the issues at hand:

“The parties agree that UGI-PNG may include eligible gathering lines and storage lines that serve a distribution function in the DSIC at such time when UGI-PNG actually installs or acquires such facilities.”, and “the parties agree that UGI-PNG will be allowed to recover through the DSIC “other related capitalized costs” including, but not limited to, regulator stations and equipment, electronic systems and software, vehicles, tools and power equipment, consistent with the DSIC Petition filed by UGI-PNG at Docket No. P-2013-2397056 on December 12, 2013.” Recommended Decision, p. 9.

Due to the fact that the Commission has previously ruled on these issues and that OCA itself agreed to the terms outlined in the Joint Settlement, we will align our stance with those terms as outlined above, hence allowing UGI to include gathering and storage lines, as well as “other capitalized costs”, for recovery under the DSIC.

1. **Effective Date**

**UGI’s Petition**

UGI’s Proposed Tariff was filed as pro forma with no issued date and an effective date of January 1, 2017. UGI’s initial DSIC rate will be set at 0.0%, and will remain at 0.0% until such time as UGI has placed in service a level of DSIC-eligible plant that exceeds the level approved by the Commission for base rate recovery in the Company’s base rate case at Docket No. R‑2015‑2518438. As stated by Company Witness William J. McAllister, “UGI believes this is appropriate in order to avoid any regulatory lag or gap between the end of its fully projected future test year and the date when UGI can recover investment through the DSIC.” UGI Statement at 5.

**Comments**

No comments were filed regarding the effective date.

**Resolution**

The Commission notes the recent settlement of UGI’s base rate case at Docket No. R‑2015‑2518438, Order entered on October 14, 2016, whereby the Commission ruled the following in Ordering Paragraph number 15:

“That, as of the effective date of the Commission’s Final Order in this case, UGI Utilities, Inc. – Gas Division is eligible to include plant additions in the Distribution System Improvement Charge once DSIC-eligible account balances exceed the levels projected by UGI Gas at September 30, 2017 on SDR-ROR-14, consistent with Settlement Paragraph 28.”

Therefore, as noted above, UGI will not be able to have a non-zero DSIC until such time as its DSIC-eligible plant placed into service has exceeded the level allowed for recovery as part of its fully projected future test year.

We shall permit UGI to implement a DSIC mechanism, pursuant to a tariff filed on 10-days’ notice and in compliance with the directives in this Order, but note that the rates charged pursuant to the DSIC surcharge shall be subject to recoupment and refund after final resolution of the issues brought before the OALJ. Therefore, based on requirements for DSIC quarterly updates, as more fully described below, the Commission directs UGI to file a tariff no later than December 21, 2016, if UGI wishes to have an effective date of January 1, 2017.[[4]](#footnote-4) UGI’s tariff must be modified in a tariff filing as directed by the Commission in this Order.

**(c) Computation of the DSIC**

**UGI’s Petition**

With the Proposed Tariff, UGI proposes a DSIC rate of 0.0%, which the Company avers was calculated consistent with the Model Tariff in the Final Implementation Order. However, just for illustrative purposes UGI has included an exhibit showing a calculation of the DSIC rate based on the forecasted ability to utilize a non-zero DSIC effective January 1, 2018, leading to a DSIC rate of .83%. The formula for calculation of the DSIC is as follows:

DSIC = (DSI \* PTRR) + Dep + e

PQR

Where:

DSI = Original cost of eligible distribution system improvement projects net of accrued depreciation.

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

Dep = Depreciation expense related to DSIC-eligible property.

e = Amount calculated under the annual reconciliation feature or Commission audit.

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

UGI’s calculation is:

DSIC = (16,485,664 \* 3.00%) + 83,303

69,777,237

UGI’s estimated DSIC rate of .83% was calculated using its actual capital structure, cost rates, and projected costs that would be suitable for a January 1, 2018 effective date. UGI will update this computation ten days before the actual approved effective date of the DSIC rate to reflect the following: the costs of all DSIC-eligible projects that were placed into service during the three month period ending one month prior to the approved effective date; UGI’s actual capital structure and cost of long term debt as of one month prior to the effective date; and the Commission-allowed rate of return on equity. Therefore, for a DSIC effective January 1, 2017, a three-month period of September through November should be used when calculating the appropriate DSIC rate. According to direct testimony by Company witness McAllister, when UGI submits its DSIC quarterly filings they will be calculated with updated data. UGI Statement at 6.

UGI used a rate of return on equity (ROE) of 10% in calculating its DSIC. UGI states that when the Commission publishes a ROE to be used for DSIC purposes[[5]](#footnote-5), it will revise its tariff filing to reflect the allowed ROE.

UGI proposes to use one-fourth of its projected annual distribution revenues to calculate projected quarterly revenues, which, according to the Company Witness McAllister, will result in a more consistent DSIC rate from quarter to quarter. The Company has chosen to base its quarterly revenues on one-fourth of its projected annual revenues to better align the fixed nature of the investment that the DSIC will be recovering with the DSIC rate itself.

**Comments**

OCA states that the DSIC surcharge proposed by UGI may be contrary to Pennsylvania case law and the established principles of sound ratemaking, and requests that the Commission reject the proposed surcharge and refer the matter to the OALJ for the development of an evidentiary record.

**Resolution**

The Commission acknowledges that UGI’s calculations are merely estimates and will not be the exact numbers used in the final DSIC calculation. Based on requirements for DSIC quarterly updates, as more fully described below, the Commission directs UGI to file an initial DSIC tariff using only actual data for eligible property placed into service during the three-month period ending one month prior to the approved effective date of the DSIC. Furthermore, the Commission recognizes that UGI’s DSIC rate will be set to 0% until such time that it has exceeded the DSIC-eligible plant identified in the Company’s current base rate proceeding.

In the calculation of its proposed DSIC, UGI used one-fourth of the annual depreciation expense based on the eligible-property placed in service for the quarter.  This calculation is consistent with UGI’s tariff and the Commission’s Model Tariff.  However, to be consistent with what has been allowed for the water utility DSICs as accepted by the Bureau of Audits and approved by the Commission, UGI should use one-fourth of the annual depreciation expense amount as the basis for its initial accumulated depreciation amount.  Each quarter going forward, the calculated depreciation expense for DSIC purposes should be added to the prior quarters calculated depreciation expense to determine the accumulated depreciation amount.

The cost of equity determinations in the Commission’s Staff Report on Quarterly Earnings of Jurisdictional Utilities (Quarterly Report) are used for DSIC calculations if more than two years have elapsed since a utility’s last fully litigated base rate case. 66 Pa. C.S. § 1357(b)(3). UGI agreed to abide by the Quarterly Report ROE determinations.[[6]](#footnote-6) If, in any quarter, a utility will earn more than the ROE used for the DSIC calculations (which may be the ROE determined in the Staff Quarterly Report), the DSIC will be reset to zero. 66 Pa. C.S. § 1358(b)(3). Accordingly, the DSIC must remain at zero until such time that the utility, in a subsequent quarter, earns less than the ROE used for the purpose of DSIC calculation.

The Commission directs that, along with its updated capital structure and cost rates filed one month prior to the approved effective date of the tariff, UGI shall file a comprehensive debt schedule, outlining all outstanding debts and their associated interest rates that were used to calculate the long term debt cost rate figure.

The Model Tariff makes available to utilities two options for calculating projected quarterly revenues: 1) The summation of projected revenues for the applicable three-month period; or 2) One-fourth of projected annual revenues. In order to maintain a more consistent DSIC rate from quarter to quarter, UGI chose to use one-fourth of its projected annual distribution revenues as its projected quarterly revenues. The Model Tariff permits the use of one-fourth of annual revenues and the Final Implementation Order recognized the seasonality of revenue issues. Therefore, UGI’s use of one-fourth of its projected annual distribution revenues as its projected quarterly revenues is appropriate.

The Commission acknowledges OCA’s complaint and notes that we will refer certain matters regarding the implementation of a DSIC surcharge to the OALJ for hearing and disposition, as outlined further in this Order.

**(d) Quarterly Updates**

**UGI’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 UGI’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 quarterly updates.

**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. If UGI seeks to recover any under-collection from customers or refund an over-collection amount to customers in a single quarter for the quarterly period commencing April 1st, this option should be clearly delineated in its tariff. 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. UGI has suggested such a schedule in the filing of their Proposed Tariff, and hence, the Commission deems UGI’s tariff to be compliant with Section 1353 as it pertains to the issue of quarterly updates. The Commission directs the Company to file supporting data for each quarterly update with the Commission’s Bureau of Audits in addition to those already listed in the tariff.

**(e) Consumer Protections**

**UGI’s Petition**

In accordance with the Model Tariff and consistent with Section 1358, UGI’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 UGI as determined on an annualized basis;
2. Annual reconciliations performed by UGI;
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, UGI’s most recent earnings report shows that UGI 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. UGI added to this a provision that specifies that the Company may reduce or eliminate the DSIC rider to any customer with competitive alternatives or flexed, discounted, or negotiated rates, which is consistent with the Final Implementation Order. UGI may exclude the DSIC rider charge from tariffs for customers with competitive alternatives and negotiated contracts. Testimony submitted by UGI witness McAllister states, “It is the Company’s intention to apply the DSIC to all customers. However, due to contractual constraints, the Company has competitive accounts that are not currently eligible for the application of a rider such as the DSIC.”

**Comments**

UGIII comments that, while it appreciates UGI’s efforts in potentially eliminating flex customers from application of the DSIC, it believes that the DSIC’s language should specifically exclude customers who receive service from UGI through Rate Schedules XD, IS, and LFD. UGIII avers that it is poor public policy for UGI to have sole discretion in determining whether or not a customer is DSIC-eligible.

**Resolution**

UGI’s proposed DSIC Tariff is consistent with the Model Tariff and complies with the customer safeguards required by 66 Pa. C.S. § 1358. However, we will refer the issue of whether or not customers receiving service under specific Rate Schedules should be exempt from the DSIC to the OALJ for hearing and disposition. To the extent that UGI may be permitted to implement a DSIC pending the OALJ proceeding and chooses to do so while this matter is pending in the OALJ, the DSIC recovery shall be subject to recoupment and refund after final resolution.

**(2) Public Interest Considerations**

**UGI’s Petition**

According to the Company, implementing the proposed DSIC and allowing the Proposed Tariff 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.

In light of its aging mains, UGI has implemented an accelerated distribution infrastructure replacement program to target the removal and replacement of all cast iron, wrought iron, and bare steel pipeline. In addition to its mains, UGI will replace gas service lines in conjunction with the replacement of the mains to which they are connected, unless otherwise required by the Commission to accelerate the relocation of meters in accordance with the Commission’s Advance Notice of Final Rulemaking Order at Docket No. L‑2009‑2107155, in which case the Company will consider an accelerated service line replacement program as part of the meter relocation program. UGI avers that the DSIC is an important element in successful implementation of this plan because it will provide the necessary capital to make continued rapid investment possible.

Prior to the accelerated program, over the baseline period of 2009 through 2011, UGI claims it invested roughly $26.1 million annually on repairing and replacing its distribution infrastructure, but with the introduction of the LTIIP, the Company committed to capital investments totaling approximately $51.2 million per year, reflecting an increase in spending of 96% over the baseline period. UGI’s Modified LTIIP further increased spending to between $66 million and $92.9 million over the remaining years of the LTIIP, an annual investment increase of at least 153% over the baseline period. UGI believes that this increased level of investment in the repair, improvement, and replacement of aging distribution facilities will reduce the number of gas leaks, allow it to install additional safety mechanisms, and generally improve service to its customers. All of these measures, UGI asserts, will help to provide safer and more efficient service to customers, and hence lend credence to the fact that the LTIIP and its associated DSIC are in the public interest.

UGI declares that the implementation of a DSIC rate is vital in supporting its efforts to replace its aging distribution system and enhance the safety of its system by ensuring replacement of deteriorating facilities with new, longer lasting, and safer materials. UGI says the DSIC will ensure the resources the Company needs to carry out its LTIIP strategies, and that because of its application, the public will receive better service with fewer interruptions.

**Comments**

No comments were received regarding the supporting evidence that UGI’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 UGI’s submitted direct testimony by the Company’s Principal Analyst 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 LTIIP. UGI filed a petition for approval of a LTIIP on December 12, 2013, which was approved by the Commission on July 9, 2014. On February 29, 2016, UGI filed a petition for approval of its Modified LTIIP, which was approved by the Commission on June 30, 2016.

**(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. UGI has provided the required certification that its last base rate case, under which UGI’s current base rates were established, was filed on January 19, 2016.[[7]](#footnote-7)

**(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. UGI 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.

UGI stated it would begin including bill inserts in its bills no later than seven days from the date of the filing of the Petition, and continuing through one billing cycle until all customers have been notified. The bill inserts will be issued to all customers who are subject to the DSIC informing them of the filing of this Petition, the estimated impact on their bills, and their rights to intervene in the proceeding. Additionally, the Company will include bill messages that will identify the level of DSIC changes and their effective dates, allowing customers to monitor the quarterly updates to the DSIC.

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[[8]](#footnote-8), based on current practice and procedure for water companies. (*See* 66 Pa. C. S. § 1358). In its Proposed Tariff UGI specifies that billing for the DSIC will be on a bills rendered basis, thereby being in accordance with the Final Implementation Order.

**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 UGI’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 January 1, 2017;
2. A three-month period of September through November for eligible plant additions[[9]](#footnote-9);
3. An appropriate return on equity as displayed in the Commission’s Quarterly Report for the period ending June 30, 2016; and,
4. An initial quarterly depreciation expense being equal to the initial accumulated depreciation.

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

Accordingly, we will refer the matter of whether or not customers receiving service under specific Rate Schedules should be exempt from the DSIC to the OALJ for evidentiary hearings and preparation of a recommended decision. To the extent that UGI 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 filing of OSBA, and conclude that they have not articulated a basis for denying UGI the opportunity to implement a DSIC mechanism, consistent with our discussion above.

**CONCLUSION**

Upon review, the Commission finds that the Petition of UGI for a Distribution System Improvement Charge complies with the requirements of Act 11, the Final Implementation Order, and the Supplemental 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, UGI 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 UGI Utilities, Inc. – Gas Division is approved, consistent with this Order.

2. That UGI Utilities, Inc. – Gas Division shall file a tariff, consistent with this Order and in accordance with the Commission’s Supplemental Implementation Order entered on September 21, 2016 at Docket No. M‑2012‑2293611, on ten days’ notice to be effective January 1, 2017. Revenues collected pursuant to said tariff will be subject to refund and recoupment based on the Commission’s final resolution of the matters referred herein to the Office of Administrative Law Judge for hearing and recommended decision.

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

* 1. Whether or not customers receiving service under specific Rate Schedules should be exempt from the DSIC.

4. 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.

5. That the Commission grants the Petition to Intervene of the UGI Industrial Intervenors consistent with the body of this Order.

6. That UGI Utilities, Inc. – Gas Division shall provide the estimated number of anticipated new jobs to be created for specific replacement projects with its revised initial DSIC tariff.  Additionally, UGI Utilities, Inc. – Gas Division 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: November 9, 2016

ORDER ENTERED: November 9, 2016

1. We will grant UGIII’s Petition to Intervene due to the fact that it was never served a copy of the Petition by UGI, even though UGIII is an active party in UGI’s base rate proceeding at Docket No. R‑2015‑2518438. Furthermore, the Petition was never posted to the *Pennsylvania Bulletin* and UGIII only became aware of the Petition when the *Pennsylvania Bulletin* included notice of UGI’s request to waive the 5% DSIC cap at Docket No. P‑2016‑2537586. UGIII avers that it submitted its Answer as quickly as possible once it became aware the Petition existed. [↑](#footnote-ref-1)
2. <http://www.legis.state.pa.us/WU01/LI/LI/US/HTM/2012/0/0011..HTM>. [↑](#footnote-ref-2)
3. On November 5, 2015, the Commission issued a *Tentative Supplemental Implementation Order* at the same docket soliciting comments regarding additional implementation issues that have arisen since the 2012 Final Implementation Order.  Subsequently, on September 15, 2016, the Commission issued a *Supplemental Implementation Order* resolving those various discrete issues regarding the implementation of the DSIC surcharge mechanism that had not fully been addressed in the previous 2012 *Final Implementation Order* and also issued a revised Model Tariff.  *See* 46 Pa.B. 6402.  Thus, the review of instant DSIC will be done in accordance with the *Supplemental Implementation Order* as well. [↑](#footnote-ref-3)
4. If UGI does not have an effective date of January 1, 2017, the next earliest effective date would be April 1, 2017. [↑](#footnote-ref-4)
5. 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-5)
6. In its Final Order on UGI’s base rate case, entered October 14, 2016 at Docket No. R‑2015‑2518438, the Commission states that, “Because there is no clear statement of ROE for DISC computation within this base rate proceeding, we recommend that, to the extent applicable, the Company use the ROE rate stipulated in the most current staff Quarterly Report. Also, for clarification, on a going forward basis, UGI should update its ROE for DSIC purposes consistent with any changes in the ROE in the Quarterly Report.” (Order p. 27). [↑](#footnote-ref-6)
7. Docket No. R-2015-2518438, Final Order entered on October 14, 2016. [↑](#footnote-ref-7)
8. “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-8)
9. UGI will not be able to have a non-zero DSIC until such time as its DSIC-eligible plant placed into service has exceeded the level allowed for recovery as part of its fully projected future test year in its recent base rate case proceeding at Docket No. R-2015-2518438. [↑](#footnote-ref-9)