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August 21, 2014

VIA ELECTRONIC FILING

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor North
P.O. Box 3265
Harrisburg, PA 17105-3265

Re: Petition of PPL Electric Utilities Corporation For Approval of a Distribution System Improvement Charge - Docket Nos. P-2012-2325034, etc.

Dear Secretary Chiavetta:

Enclosed for filing please find the Exceptions of PPL Electric Utilities Corporation for the above-referenced proceeding.

Copies will be provided as indicated on the Certificate of Service.

Respectfully submitted,

David B. MacGregor

DBM/jl
Enclosures

cc: Honorable Kandace F. Melillo
Certificate of Service

CERTIFICATE OF SERVICE

Docket No. P-2012-2325034

I hereby certify that true and correct copies of the foregoing have been served upon the following persons, in the manner indicated, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant).

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Date: August 21, 2014

Jessica R. Rogers

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Petition of PPL Electric Utilities	:	
Corporation For Approval of a Distribution	:	Docket Nos. P-2012-2325034
System Improvement Charge	:	
	:	
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Alan D. Whitehouse	:	C-2013-2345750
Pamela Mosconi	:	C-2013-2346375
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EXCEPTIONS OF
PPL ELECTRIC UTILITIES CORPORATION

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Date: August 21, 2014

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I. INTRODUCTION

On January 15, 2013, pursuant to Section 1353 of the Public Utility Code, PPL Electric Utilities Corporation ("PPL Electric" or the "Company") filed a Petition for Approval of a Distribution System Improvement Charge ("DSIC"). 66 Pa.C.S. § 1353. As part of the Petition, PPL Electric included a DSIC tariff that was consistent with the model tariff provided by the Pennsylvania Public Utility Commission ("Commission") in its Final Implementation Order at Docket No. M-2012-2293611. By Order entered May 23, 2013, the Commission approved PPL Electric's DSIC subject to refund, pending final resolution of issues raised by the Office of Consumer Advocate ("OCA") and the PP&L Industrial Customer Alliance ("PPLICA").

After a fully litigated proceeding, including discovery and written testimony, on July 25, 2014, Administrative Law Judge Kandace F. Melillo (the "ALJ") issued her Recommended Decision ("RD"). After a thorough analysis of the arguments made by the parties, the RD correctly rejected OCA's proposals to modify the calculation of the charges to: (1) include Accumulated Deferred Income Tax ("ADIT") as an offset to plant, and (2) exclude a state income tax gross-up. (RD at 29; 34-35.) The RD also recommends that PPL Electric modify its DSIC tariff to exclude Rate Schedule LP-5 customers from being charged the DSIC. (RD at 48.) Finally, the RD incorrectly excluded revenues from two distribution rate riders, the Act 129 Compliance Rider ("ACR") and the Competitive Enhancement Rider ("CER"), from the calculation of the 5% DSIC cap. (RD at 57.)

PPL Electric supports the conclusions and recommendations set forth in the RD related to the OCA's tax proposals, and does not except to those findings. PPL Electric also is not excepting to excluding Rate Schedule LP-5 customers from the DSIC. PPL Electric, however, strongly disagrees with the RD's conclusion that the ACR and CER should be excluded from the calculation of the 5% DSIC cap. This conclusion is clearly at odds with the plain language of the

statute and the unrebutted evidence that the ACR and CER are distribution rates. Moreover, the proper calculation of the 5% DSIC cap for electric distribution companies is an issue of first impression and of statewide importance. Adoption of the RD would reduce the 5% DSIC cap and thereby would reduce the level of eligible investments that can be recovered through the DSIC. For the reasons explained below, PPL Electric respectfully requests that the Commission adopt PPL Electric's Exceptions and revise the RD accordingly and, in all other respects, adopt the RD.

II. EXCEPTIONS

Exception No. 1: The RD erred by applying an incorrect legal standard. (RD at 59.)

Exception No. 2: The RD erred in concluding that the ACR and CER, which are distribution rate riders that collect revenues associated with distribution services from all distribution customers, should be excluded from the calculation of the 5% DSIC cap. (RD at 57-59.)

Exception No. 3: Adoption of the analysis and conclusion contained in the RD will negatively impact the effectiveness of the DSIC, will undermine the legislative intent of the General Assembly, will cause a patchwork regulatory landscape, and could adversely impact the effectiveness of the DSIC mechanism. (RD at 57-59.)

III. ARGUMENT

One of the customer protections afforded by Act 11 is the 5% revenue cap, which limits the amount of revenue that eligible utilities can recover through the DSIC. Specifically, 66 Pa.C.S. § 1358(a)(1) of the Code provides:

> [T]he distribution system improvement charge may not exceed 5% of the amount billed to customers under the ... distribution rates of the electric distribution company....

In order to properly determine the 5% revenue cap associated with the DSIC, utilities are required by Act 11 to calculate their projected quarterly revenues. Act 11 clearly excludes the state tax adjustment surcharge ("STAS") from the calculation of total revenues. 66 Pa.C.S. § 1357(d)(2). For electric distribution companies ("EDCs"), such as PPL Electric, the statute does not provide that any other distribution revenues should be excluded.

In preparing its DSIC tariff, PPL Electric has included only those clauses and riders that apply to distribution service customers, including the ACR, CER, Universal Service Rider, and the Smart Meter Rider. As required by the statute, STAS was excluded. The charges included in the DSIC calculation are applied to PPL Electric customers who receive distribution service from the Company under its tariff on a non-bypassable basis. In other words, the ACR and CER are clearly distribution rates, and the revenues produced by those rates clearly should be included in the calculation of the 5% DSIC cap. PPL Electric has appropriately included these applicable riders in its determination of projected quarterly revenues based on the language in Act 11 and the Commission's Final Implementation Order.

While the Commission, in its May 23 Order, initially identified five riders included by PPL Electric in its DSIC for review, PPLICA narrowed the scope of its challenge to two of the five riders: the ACR and the CER. The RD concluded that PPL Electric failed to show that the revenues from the ACR and CER are sufficiently applicable to the purpose of the DSIC. (RD at 59.) The RD ignores the plain language of the statute and applies an incorrect legal standard in its designation that revenues must be related to the DSIC, and also fails to acknowledge the clear and unrebutted evidence presented by the Company in this case that the ACR and CER are distribution rates. The RD's conclusion should be rejected, and the ACR and CER should be included in the calculation of total revenues.

A. THE RD APPLIES AN INCORRECT LEGAL STANDARD.

The RD concluded that PPL Electric failed to show that the revenues collected in the ACR and CER were sufficiently related to the purpose of the DSIC. (RD at 59.) Further, the RD held that "the overall purpose of a DSIC surcharge under Act 11 is to provide an additional mechanism for a distribution system to recover costs related to repair, improvement and replacement of eligible property." (internal citation omitted) (RD at 58.) This legal standard, which requires that the revenues included in the calculation of the DSIC cap be related to the purpose of the DSIC, *i.e.*, revenues associated with distribution plant, is not the correct legal standard. Act 11 does not require that projected quarterly revenues be associated with the DSIC. The legal standard applied in the RD is inconsistent with the statute, is unreasonably narrow and should be rejected.

Act 11 provides that:

> [T]he distribution system improvement charge may not exceed 5% of the amount billed to customers under the ... distribution rates of the electric distribution company....

66 Pa.C.S. § 1358(a)(1) (emphasis added). Based on this clear statutory language, the relevant inquiry is whether the ACR and CER are *distribution rates*. The statutory definition of a rate includes, "every individual, or joint fare, toll, charge, rental or other compensation whatsoever of any public utility..." 66 Pa.C.S. § 102. Rates produce revenues, which is the relevant inquiry in this proceeding. It would be improper to narrowly define the term rate used in Act 11, when the statutory definition of that term is very broad, and encompasses the ACR and CER.

There is further evidence in the RD that the legal standard applied misinterprets the statutory language. The RD erroneously looks at the definition of "eligible property" in Act 11 for guidance on the issue of inclusion of the riders in projected quarterly revenue. (RD at 58.) Under Act 11, a utility may only recover the costs related to eligible property in the DSIC, and

may only recover costs up to 5% of its distribution revenues on a quarterly basis. However, the determination of what constitutes eligible property is a separate and unrelated determination from the issue of what is included in the calculation of revenues. The RD's attempt to apply an eligible property analysis to whether riders should be included in the calculation of revenues should be rejected.

The legal standard applied in this proceeding is unreasonably narrow, and could be read to exclude many revenues in base rates that have historically been included in the calculation of the DSIC cap. For example, there are revenues associated with Operating and Maintenance ("O&M") expenses and labor which are recovered through the Company's base rates and which are reflected in the total revenue calculation. Some of these revenues are unrelated to the DSIC, however, these revenues have always been recognized in the calculation of the historic water DSIC as part of total revenues. No party has proposed that these revenues be excluded from the calculation of total revenues, despite their lack of relation to the purpose of the DSIC. Further, the RD does not propose to exclude revenues associated with the Smart Meter Rider, even though meters are specifically excluded from DSIC eligible property. Nor does it propose to exclude the Universal Service Rider, which also does not collect revenues directly associated with distribution plant. Thus, the legal standard announced in the RD is not only erroneous, but it is applied inconsistently to the revenues that have historically been included in the DSIC.

The conclusion reached in the RD to exclude the ACR and CER from the calculation of revenues is based on an inappropriate requirement that the revenues included in the calculation show "sufficient applicability to the purpose of the DSIC." (RD at 59.) This legal standard is inconsistent with the historic approach to the calculation of total revenues, and was not even applied consistently within this proceeding. Further, as described in Section C of these

Exceptions, the application of this legal standard would have a significant detrimental impact on the effectiveness of Act 11. The Commission should reject the legal standard applied in the RD which requires that revenues be associated with the purpose of the DSIC.

B. THE ACR AND CER ARE DISTRIBUTION RATES AND COLLECT REVENUES ASSOCIATED WITH DISTRIBUTION SERVICE.

In this proceeding, the RD concluded that PPL Electric failed to show that the ACR and CER are distribution rates, without an appropriate analysis of the evidence presented by PPL Electric. (RD at 59.) This conclusion is not supported by the record evidence in this proceeding.

The correct legal standard to be applied in this proceeding is whether PPL Electric's ACR and CER are excluded from the calculation of the 5% cap based upon the statute, the Commission's Final Order, or because they are not distribution rates. As described in this Section, Act 11 and the Commission's Final Implementation Order do not require the exclusion of these riders. Further, the ACR and CER are clearly distribution rates and the revenues generated from the application of these distribution rate riders are clearly distribution revenues, and the costs recovered in the riders would be recoverable in base rates but for the existence of the automatic adjustment mechanism authorized by 66 Pa C.S. § 1307. The fact that certain distribution costs are recovered through a Section 1307 automatic adjustment clause instead of a base rate established under 66 Pa C.S. § 1308 does not and logically cannot preclude riders from being considered as distribution rates. (PPL Electric St. 3-R, p. 9.) The focus on and exclusion of these two riders creates an irrelevant distinction between distribution revenues and certain non-bypassable revenues collected from distribution customers for services provided to distribution customers. Such distinction should be rejected by the Commission.

1. The Plain Language of Act 11 Requires the Inclusion of Riders in the Calculation of the 5% DSIC Cap.

The plain language of Act 11 includes all distribution rates charged to customers in the calculation of the 5% DSIC cap. With regard to the 5% DSIC cap, Act 11 states:

> [T]he distribution system improvement charge may not exceed 5% of the amount billed to customers under the ... distribution rates of the electric distribution company....

66 Pa.C.S. § 1358(a)(1) (emphasis added). Act 11 excludes only public fire protection service earned by water utilities and the STAS from the calculation of the 5% DSIC cap. 66 Pa. C.S. §1357 (d)(2). Proper statutory construction requires the Commission to conclude that Act 11 includes distribution riders, because they are distribution rates and were not specifically excluded from the DSIC calculation by the General Assembly.

The primary objective of statutory interpretation is to discern the intent of the General Assembly. The Statutory Construction Act of 1972 ("Statutory Construction Act") provides that "the object of all interpretation and construction of statutes is to ascertain and effectuate the intention of the General Assembly." 1 Pa.C.S. § 1921. As the courts have noted, "it is incumbent that the reviewing court endeavor to ascertain the intent of the Legislature." *Commonwealth v. Cox*, 603 Pa. 223, 283, 983 A.2d 666, 703 (2009). In order to ascertain the intent of the General Assembly, the ruling body should first look at the plain language of the statute. *Commonwealth v. Segida*, 604 Pa. 103, 108, 985 A.2d 871, 874 (2009). When the language of the statute is free from ambiguity, the letter of the statute is to be followed. *See* 1 Pa.C.S. § 1921(b).

As described previously in these Exceptions, the statutory definition of a rate under 66 Pa.C.S. § 102 is very broad. The rules of statutory construction provide that statutes are to be construed in harmony with existing law and as part of a general and uniform system of

jurisprudence. *See* 1 Pa. C.S. § 1932. Rates, and the resulting revenues, are the relevant inquiry in this proceeding. It would be improper to narrowly define the term "distribution rates" used in Act 11, when the statutory definition of a rate under 66 Pa.C.S. § 102 is very broad, and encompasses the ACR and CER. The ACR and CER are distribution rates, and therefore the revenues generated by those rates are distribution revenues which should be included in the Company's calculation of total revenues for the purposes of determining the 5% DSIC cap. Any other conclusion would violate the rules of proper statutory construction.

Further, the plain language of Act 11 provides only that "projected revenues shall not include revenues from public fire protection service earned by water utilities and the State tax adjustment surcharge." 66 Pa. C.S. §1357 (d)(2). The Pennsylvania Supreme Court has held that in determining legislative intent it is not appropriate to "supply omissions in the statute, especially where it appears that the item may have been intentionally omitted." *Mt. Village v. Bd. of Supervisors*, 582 Pa. 605, 874 A.2d 1, 22 (Pa. 2005) (citing *Kusza v. Maximonis*, 363 Pa. 479, 70 A.2d 329, 331 (Pa. 1950)). Act 11 excluded only the STAS adjustment for EDCs. It did not exclude any other riders, adjustments, or elements of distribution rates. It would be improper to exclude these additional items, where the General Assembly has clearly already identified the items which are to be excluded from the calculation of revenues.

The only appropriate statutory analysis on this issue is whether riders were specifically identified as excluded revenue from the calculation of total revenues. The plain language of the statute does not identify the ACR and CER, or riders more generally, for exclusion from the revenues calculation. As a result, the calculation of total revenues should include all riders, adjustments, and other elements of distribution rates other than those specifically identified for

exclusion by the General Assembly. Therefore, PPL Electric's inclusion of the ACR and CER is appropriate under Act 11.

2. The ACR and CER Are Distribution Rates.

It is fundamentally inaccurate to conclude that the ACR and the CER are not distribution rates. As established in the prior section, riders are rates under the statutory definition of what constitutes a rate. All PPL Electric rates are either distribution, transmission, or generation rates. (PPL Electric St. 3-R, p. 8.) There is no "other" category of rates. (PPL Electric St. 3-R, p. 8.) ACR and CER rates are clearly not associated with generation or transmission. If these rates were generation or transmission rates, they would be bypassable and would not be paid for by shopping customers. However, the ACR and CER are plainly non-bypassable. Further, these charges are part of the Company's distribution service tariff and are approved by the Commission. (PPL Electric St. 3-R, p. 9.) This clearly makes the revenues produced by the ACR and CER revenues associated with providing distribution service to end-use customers, rather than transmission or generation revenues.

The CER recovers costs related to competitive retail electricity enhancement initiatives undertaken by electric distribution companies, and related consumer education programs, from all distribution service customers. (PPL Electric St. 3-R, p. 9.) The CER was approved in the Company's most recent base rate case. In that case, PPL Electric proposed that absent approval of the CER mechanism and the proposed costs, the Company would seek recovery of the costs through base rates. (PPL Electric St. 3-R, p. 9.) The programs provided as a result of the CER are targeted at distribution customers, the costs are related to educating customers, and but for the existence of the rider mechanism, these costs would be recovered through base rates. (PPL Electric St. 3-R, p. 9.) Contrary to the finding in the RD, these revenues are clearly associated with providing distribution service to customers, and should be included as distribution revenues.

The ACR recovers costs associated with Act 129, which was signed into law in 2008. Act 129 requires large electric distribution companies to file energy conservation plans with the Commission designed to achieve specified demand and energy reduction targets. Cost recovery for Act 129 is guaranteed through a Section 1307 automatic adjustment clause. (PPL Electric St. 3-R, p. 10.) Revenues related to recovering the cost of this program are obviously distribution related, as they target the energy consumption habits of the Company's distribution customers, *i.e.*, they attempt to reduce the total amount of electricity distributed to end-use customers. Further, the costs associated with Act 129 are similar to energy conservation and education programs in place prior to Act 129, which were included in distribution rates. (PPL Electric St. 3-R, p. 10.) The fact that the legislature authorized Section 1307 rate recovery for energy conservation costs does not and cannot somehow transform these costs into something other than distribution service costs.

For both the ACR and CER, PPL Electric would not incur the costs recovered in the riders but for its role as a provider of distribution services. (PPL Electric St. 3-R, p. 10.) For Act 129, the obligation to achieve energy savings is imposed by statute on the electric distribution companies, the onus for these programs is placed upon the EDC, and recovery of the costs is therefore distribution revenue which should be included in the DSIC. The ACR and the CER are Commission-approved riders that recover charges specifically apportioned to electric distribution companies. As PPL Electric's witness testified, if these costs were not recovered in Section 1307 adjustment clauses, they would be included and recovered in the Company's Section 1308 distribution rates. (PPL Electric St. 3-R, p. 9.) In that instance, the revenues would not be accounted for any differently than other base distribution revenues. Further, for billing purposes, both the CER and ACR are combined with general residential distribution service rates and

included as a single line item on the residential customer's bill for "distribution service." (PPL Electric St. 3-R, p. 11.)

The ACR and CER are both rates contained in PPL Electric's distribution tariff and are charged to all distribution service customers. Each recovers costs incurred by PPL Electric to meet its statutory obligations as an electric distribution company under the Public Utility Code. The costs now recovered by these two distribution rate riders were previously recovered in base distribution rates. Act 11 draws no distinction between base rates and base rate riders. Both of these riders clearly collect and recover distribution system costs and are properly included in the calculation of total distribution revenues.

3. The Commission's Final Implementation Order Includes All Applicable Riders.

In addition to the plain language of Act 11, which supports PPL Electric's inclusion of the ACR and CER, riders also are included in the calculation of projected quarterly revenues in the Commission's Final Implementation Order. In the Commission's Final Implementation Order for the DSIC, the Commission's model tariff identifies specifically that riders should be included in the calculation of the charge. The model tariff provides that:

> Projected quarterly revenues for distribution service (including all applicable clauses and riders) from existing customers plus netted revenue from any customers which will be gained or lost by the beginning of the applicable service period.

(Pages 5-6 of Appendix A to Final Implementation Order.) In addition, the model tariff provides that 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." (Page 7 of Appendix A to Final Implementation Order.) Again, there is no identification that certain riders should be excluded from the calculation of total revenues.

Consistent with the language contained in the model tariff, PPL Electric calculated its total distribution revenues to include all applicable distribution riders. The ACR and CER are distribution rates which are part of the Company's distribution service tariff, and they recover costs booked to the distribution business pursuant to FERC's Uniform Systems of Accounts for distribution service. (PPL Electric St. 3-R, pp. 8-9.) The ACR and CER were therefore appropriately included in the calculation of the projected revenues.

As shown previously in these Exceptions, exclusion of riders which are required in order to provide distribution service creates an arbitrary distinction regarding revenues that is not required by either Act 11 or the Commission's Final Implementation Order. The ACR and CER are included in the line item for "distribution service" on the customer's bill, along with the other riders which the parties and the RD agree are appropriately included in the DSIC. (PPL Electric St. No. 3-R, p. 11.) Further, as previously noted, without the ACR and CER riders, these costs would be incorporated into base rates, and therefore would be considered part of the Company's revenue for the purposes of calculating the total revenues for the DSIC. (PPL Electric M.B., pp. 37-38; PPL Electric St. No. 3-R, pp. 9-10). It would be illogical to conclude that the costs recovered through the ACR and CER should be treated differently, depending on whether or not they were recovered through a rider.

PPL Electric has shown in this proceeding that the ACR and CER are distribution riders that produce distribution revenues, and there is no basis in Act 11 or the Commission's Final Implementation Order for excluding them from the calculation of total revenues. Therefore, the conclusion reached in the RD should be rejected, and the ACR and CER should be included in the calculation of total revenues.

C. EXCLUSION OF RIDERS WILL HAVE A SIGNIFICANT STATE-WIDE IMPACT ON THE EFFECTIVENESS OF THE DSIC.

The question of the appropriate inclusion of riders in the calculation of the DSIC cap is an issue of first impression before this Commission with significant practical, administrative, and policy implications. While other utilities have filed DSICs that include revenues from distribution rate riders in the calculation of the 5% DSIC cap, PPL Electric is the first EDC to file for a DSIC, and is also the only utility at this time whose inclusion of riders has been challenged. Therefore, it is important for the Commission to consider not just the impact that exclusion of the ACR and CER will have on PPL Electric's ability to utilize the DSIC, but the potentially far reaching consequences of adopting the incorrect legal standard relied upon in the RD, and the impact that such a standard would have on effectuating the legislative intent of the General Assembly in passing Act 11.

The legal standard applied in the RD is inconsistent with the concept of calculating the total revenues collected from a utility's distribution rates, and the end result of such a policy will limit the effectiveness of Act 11. Act 11 was intended by the General Assembly to provide utilities with financial incentive to undertake expensive repair and replacement programs for distribution infrastructure. In order for this incentive to be effective, the DSIC cap must not be set so low as to cause the DSIC to become almost immediately ineffective at meeting the financial needs of the utilities. Exclusion of riders, such as the ACR and CER would have a significant impact on the 5% cap not just for PPL Electric, but for all EDCs, and potentially all other utilities. Excluding the ACR alone can amount to a 2% reduction in total distribution revenues for all EDCs. (PPL Electric St. 3-R, p. 10.) The consequences of this reduction are either that more EDCs would need to petition for a waiver of the 5% cap pursuant to § 1358(a)(1), or that they would be forced to reduce, delay or abandon their planned investment

in infrastructure repair and replacement. If more EDCs were required to petition for a waiver, the requests would needlessly increase the administrative burden on the Commission.

Other utilities also include riders in their calculation of quarterly revenues. For instance, several Natural Gas Distribution Companies ("NGDCs") include revenues generated by the Merchant Function Charge, the Gas Procurement Charge, and the Universal Service Rider in their calculation of total revenues. No one has ever objected to this approach and the Commission did not set these riders for investigation. As a result, adopting the legal standard applied in the RD and excluding the ACR and CER would be unduly discriminatory towards PPL Electric, because other utilities are being allowed to include, in their calculation of total revenues, riders that recover costs that are not related to the DSIC. This case by case determination as to which distribution riders should be included in the calculation of revenues will likely result in certain utilities having less successful DSIC programs than other similarly situated utilities, and will make the regulatory landscape difficult for individual utilities to navigate.

A more appropriate approach, and the approach that is mandated by the DSIC statute, would be to follow the requirements of the statute and include revenues from all distribution rates, including revenues from Section 1307 distribution rates, in calculating the DSIC cap. The legal standard in the RD should be rejected, and consistent with the plain language of the statute, revenues from all distribution rates should be included in the calculation of the 5% DSIC cap except for those specific distribution rates, *e.g.*, STAS, excluded by Act 11.

Most significantly, taken to its logical consequences, the legal standard applied in this proceeding would adversely affect the DSIC by excluding costs that are not associated with DSIC distribution plant from revenues, including revenues collected through base rates. Base

rates include many individual items which are not associated with DSIC plant. If the ACR and the CER do not meet the standard for distribution revenues, because they are not sufficiently associated with DSIC plant, then in future proceedings individual items in rate base for all utilities may be subject to the same analysis and exclusion.[1] This would have many negative impacts on the DSIC. First, such an inquiry would be very burdensome, and clearly violates the legislative intent to adopt a simple and straightforward cost recovery mechanism. Second, individualized treatment of distribution revenues would be inconsistent with the historic practice used successfully in the implementation of the water DSIC for the past sixteen years. Third, excluding costs not associated with DSIC plant, such as labor and O&M, would dramatically lower the 5% cap. Such a result clearly undermines the goals and legislative intent of Act 11 and, therefore, the legal standard applied in the RD should not be adopted.

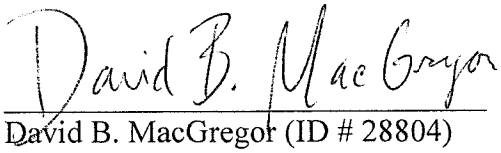
Adopting the legal standard and conclusion in the RD could have far reaching negative consequences for the successful implementation of the Act 11 DSIC mechanism. The Commission should consider the policy implications of such a determination, and should reject the analysis and conclusion of the RD. The Commission should instead rely on a simple and straightforward analysis that ensures that the goal of the General Assembly, which is to encourage utilities to undertake significant and expensive repair and replacement programs for distribution infrastructure, is achieved.

[1] Further, if the legal standard required is revenues associated with DSIC plant, then the only revenues that are directly associated with DSIC plant are those revenues received in the DSIC mechanism. This would create a circular calculation that was extremely narrow in scope, and would render Act 11 essentially useless.

IV. CONCLUSION

For the foregoing reasons, the RD should be revised to reject PPLICA's proposal to exclude the ACR and the CER from the calculation of total revenues. In all other respects, the RD should be affirmed.

Respectfully submitted,



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Date: August 21, 2014