

**PENNSYLVANIA
PUBLIC UTILITY COMMISSION
Harrisburg, PA 17120**

Public Meeting held December 5, 2024

Commissioners Present:

Stephen M. DeFrank, Chairman
Kimberly Barrow, Vice Chair
Kathryn L. Zerfuss
John F. Coleman, Jr.
Ralph V. Yanora

Petition of National Fuel Gas Distribution
Corporation for Approval of a Distribution System
Improvement Charge

Docket No.
P-2022-3034957

OPINION AND ORDER

BY THE COMMISSION:

Before the Commission for consideration is the Petition for approval of the Distribution System Improvement Charge (DSIC) of National Fuel Gas Distribution Corporation (NFGDC or Company). For the reasons expressed in this Order, the Commission will approve the NFGDC's proposed DISC as modified by this Order.

HISTORY OF THE PROCEEDING

NFGDC is a “public utility” and a “natural gas distribution company” (NGDC) as those terms are defined in Sections 102 and 2202 of the Code, 66 Pa.C.S. §§ 102, 2202. The Company owns property in Pennsylvania for the transmission and distribution of natural gas and provides natural gas distribution service to approximately 215,000 customers over 4,917 miles of pipe in various communities in the counties of Armstrong, Butler, Cameron, Clarion, Clearfield, Crawford, Elk, Erie, Forest, Jefferson, McKean, Mercer, Venango, and Warren, Pennsylvania.

On September 2, 2022, NFGDC 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 Commission’s regulations at 52 Pa. Code § 121.4. The Company’s LTIIP was approved by the Commission on December 22, 2022. NFGDC’s LTIIP is a 5-year program (2023-2027), which accelerates average replacement mileage and investment by approximately 27.8% and 64.3%, respectively, compared to the Company’s historic baseline period.

On April 10, 2024, NFGDC filed a petition to establish and implement a DSIC pursuant to 66 Pa. C.S. § 1353 and the *Implementation of Act 11 of 2012*, Order at Docket No. M-2012-2293611 (August 2, 2012) (Final Implementation Order). NFGDC’s DSIC Petition (Petition) includes a pro forma Tariff Addendum to Gas – Pa. P.U.C. No. 9 to introduce the DSIC Rider into the Company’s tariff with an effective date for bills rendered on and after October 1, 2024, for plant placed in service on and after August 1, 2024, consistent with the settlement of NFGDC’s last base rate proceeding as memorialized in the Joint Petition for Approval of Settlement of All Issues entered into and approved in Docket No. R-2022-3035730 (Rate Case Settlement). Based on its Rate Case Settlement, NFGDC cannot recover any costs associated with infrastructure replacements through the DSIC until after August 1, 2024, and until it has placed in

service a level of plant that exceeds the level set forth in the Rate Case Settlement. In the base rate proceeding, the Company used a Fully Projected Future Test Year (FPFTY) ending July 31, 2024, and as set forth in the Rate Case Settlement, the Company projected \$781,263,000 of net plant placed in service as of July 31, 2024. *See* Rate Case Settlement ¶ 28(b). Per the Rate Case Settlement, once the Company exceeds this level of plant placed in service, dollars associated with DSIC-eligible plant that are above that amount will be considered eligible for recovery through the DSIC. Until that time, the Company will reflect a DSIC of 0.0%.

On May 7, 2024, the Office of Small Business Advocate (OSBA) filed a Notice of Intervention and Public Statement. The OSBA requested that the Petition be subject to investigation and evidentiary hearings before the Commission. On October 11, 2024, the OSBA clarified that it was not requesting a hearing before the Office of Administrative Law Judge in this matter.

No objections or comments were received from federal, state or local governmental agencies.

BACKGROUND

Act 11 of 2012, P.L. 72, (Act 11) became effective April 14, 2012,¹ which amended Chapters 3, 13 and 33 of Title 66. Act 11, *inter alia*, provides jurisdictional water and wastewater utilities, electric distribution companies, 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

¹ <http://www.legis.state.pa.us/WU01/LI/LI/US/HTM/2012/0/0011..HTM>.

the implementation of a DSIC, a utility must file an LTIP 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 11.²

On April 22, 2022, the Commission issued a Secretarial Letter initiating a generic proceeding for the purpose of revising the Model Tariff to comply with Section 1301.1(a) of the Pennsylvania Public Utility Code (Code), 66 Pa. C.S. § 1301.1(a), as interpreted by the Pennsylvania Supreme Court in *McCloskey v. Pa. Pub. Util. Comm'n*, 255 A.3d 416 (Pa. 2021) (*McCloskey*). In *McCloskey*, the Supreme Court affirmed the Commonwealth Court's decision, finding that Section 1301.1(a) requires state income tax deductions and accumulated deferred federal income taxes (ADIT) associated with DSIC-eligible plant additions to be included in the DSIC calculation. On October 27, 2022, the Commission adopted a Supplemental Implementation Order to address changes to the DSIC calculation and the DSIC Model Tariff as required by the *McCloskey* decision. The Commission determined that all jurisdictional utilities with a Commission-approved DSIC mechanism shall file a pro forma tariff supplement reflecting the updated formula

² 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 the instant DSIC will be done in accordance with the *Supplemental Implementation Order* as well.

for calculation of the DSIC by December 1, 2022.³ Upon Commission approval of the pro forma supplement, each utility would be permitted to implement the proposed tariff changes with the filing of its quarterly DSIC update by December 21, 2022, to be effective on January 1, 2023.

NFGDC'S DISTRIBUTION SYSTEM IMPROVEMENT CHARGE PETITION

Section 1353 of the Code, 66 Pa. C.S § 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:
 - a. A description of eligible property;
 - b. The effective date of the DSIC;
 - c. Computation of the DSIC;
 - d. The method for quarterly updates of the DSIC; and
 - e. A description of consumer protections.
2. Testimony, affidavits, exhibits, and other supporting evidence demonstrating that the DSIC is in the public interest;
3. A LTIP 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.

NFGDC's petition addresses each of the elements listed in the statute, as detailed below.

³ As set forth in Appendix A of the Supplemental Implementation Order, Docket No. M-2012-2293611.

(1) Tariff Filing

Utilities are required to file an initial tariff that complies with the Model Tariff adopted by the Commission. NFGDC's pro forma Tariff Addendum to Gas – Pa. P.U.C. No. 9 (Proposed Tariff) was developed in compliance with the Model Tariff. The Proposed Tariff also contains updates that are necessary to reflect the application of 66 Pa. C.S. § 1301.1 to include income tax deductions and credits in its quarterly DSIC calculation. We shall review each item in turn.

(a) Eligible Property

NFGDC's Petition

NFGDC designates the same property as DSIC-eligible as it included in its LTIIP and as per the Model Tariff. The Company's Proposed Tariff includes piping, couplings, gas service lines and insulated and non-insulated fittings, valves, excess flow valves, risers, meter bars, meters, unreimbursed costs related to highway relocation projects where a natural gas distribution company must relocate its facilities, and other related capitalized costs.

Comments

No comments were filed regarding eligible property.

Resolution

NFGDC's Proposed Tariff is consistent with the Model Tariff and complies with eligible property for NGDCs as defined in Section 1351 of the Code, 66 Pa. C.S. § 1351(2).

(b) Effective Date

NFGDC's Petition

NFGDC's Proposed Tariff was filed as *pro forma* with no issued and (or) effective date. However, in its petition the Company requested an effective date for bills rendered on and after October 1, 2024 for plant placed in service on and after August 1, 2024, consistent with the terms of NFGDC's Rate Case Settlement at Docket No. R-2022-3035730. Based on its Rate Case Settlement, NFGDC cannot recover any costs associated with infrastructure replacements through the DSIC until after August 1, 2024, and until it has placed in service a level of plant that exceeds the level set forth in the Rate Case Settlement. In the base rate proceeding, the Company used a FPPTY ending July 31, 2024, and as set forth in the Rate Case Settlement, the Company projected \$781,263,000 of net plant placed in service as of July 31, 2024. *See* Rate Case Settlement ¶ 28. Per the Rate Case Settlement, once the Company exceeds this level of plant placed in service, dollars associated with DSIC-eligible plant that are above that amount will be considered eligible for recovery through the DSIC. Until that time, the Company will reflect a DSIC of 0.0%.

As stated by Company Witness Donald N. Koch, "The soonest date DSIC eligible plant costs are available for inclusion of the DSIC calculation is August 1, 2024. Therefore, the Company proposes an initial effective date of October 1, 2024 to align with the quarterly DSIC schedule utilized by the Commission for DSIC update filings." Statement No. 1, page 8, Lines 5-8.

Comments

No comments were filed regarding the effective date.

Resolution

NFGDC's Rate Case Settlement, approved by the Commission at Docket No. R-2022-3035730 in an Order entered on June 15, 2023, states:

C. DISTRIBUTION SYSTEM IMPROVEMENT CHARGE (DSIC)

28. National Fuel intends to file for Commission approval of a DSIC. Assuming that the DSIC is approved, the initial DSIC will be calculated to recover the fixed costs of eligible property that has been placed in service during the three-month period ending one month prior to the effective date of the initial DSIC subject to the following two limitations:

- a. No plant additions placed into service before August 1, 2024, (i.e., the end of the FPFTY) will be eligible for DSIC recovery; and
- b. National Fuel will not be eligible to include plant additions in the DSIC until the total plant in service exceeds the level of \$781,263,000 as projected by National Fuel in this proceeding at July 31, 2024. See National Fuel Exhibit A – Rebuttal. The foregoing sentence is included solely for purposes of calculating the DSIC, and is not determinative for future ratemaking purposes of the projected additions to be included in rate base in an FPFTY filing.⁴

As noted above, NFGDC 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 a compliance filing dated October 15, 2024, NFGDC stated that the Company's actual plant in service on July 31, 2024 was \$766,275,000. Consequently, the Company has not reached the \$781,263,000 total plant in service as required by the rate case settlement approved by the Commission. NFGDC must therefore provide a verified statement stating that total plant in service has exceeded its agreed upon level of \$781,263,000 in order to implement a non-zero DSIC rate.

⁴ See Rate Case Settlement ¶ 28(b).

We shall permit NFGDC to implement a DSIC mechanism, pursuant to a tariff filed on 10-days' notice and in compliance with the directives in this Order. Therefore, based on requirements for DSIC quarterly updates, as more fully described below, the Commission directs NFGDC to file a tariff no later than December 21, 2024, to have an effective date of January 1, 2025.⁵

(c) Computation of the DSIC

NFGDC's Petition

The Company states that it will calculate the DSIC by the prescribed formula in accordance with the model tariff provided by the Commission, as updated by the Supplemental Implementation Order.⁶ The formula for the calculation of the Company's DSIC is as follows:

$$\text{DSIC} = \frac{(\text{DSI} * \text{PTRR} + \text{STFT} + \text{Dep} + e)}{\text{PQR}}$$

Where:

- DSI = Original cost of eligible distribution system improvement projects net of accrued depreciation and associated accumulated deferred income taxes pertaining to property-related book/tax depreciation timing differences resulting from the use of accelerated depreciation per Internal Revenue Code, 26 U.S. Code § 168.
- PTRR = Pre-tax return rate applicable to DSIC-eligible property.
- STFT = (State Tax Flow Through) Pre-tax flow through calculated on book-tax timing differences between accelerated tax depreciation and book depreciation net of federal tax.
- Dep = Depreciation expense related to DSIC-eligible property.

⁵ If NFGDC does not have an effective date of January 1, 2025, the next earliest effective date would be April 1, 2025.

⁶ Implementation of Act 11 of 2012, Docket No. M-2012-2293611 (Pa. Pub. Util. Comm'n Oct. 27, 2022) ("Supplemental Implementation Order"). The Commission denied a petition for rehearing and clarification of the Supplemental Implementation Order on March 2, 2023.

- 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 applicable customers.

The Company proposes using one quarter of its projected annual revenue to calculate its projected quarterly revenue and will utilize its most recent financial forecast for the fiscal year in which the DSIC will be in place. Since the Company's fiscal year begins on October 1st, the projected revenue will be reset each October 1st. Witness Koch avers that the use of the one quarter revenue approach will result in a more consistent DSIC rate from quarter-to-quarter.

As explained in Mr. Koch's testimony, the Company will follow Section 2 of the Commission's updated model tariff and apply the formula set forth in subsection 2(D) of the updated model tariff. Ten days before the day that the DSIC rate becomes effective or is modified, the Company will update its computation to reflect the cost of DSIC-eligible projects that were actually placed into service during the relevant quarterly period, as well as the Company's actual capital structure and cost of long-term debt.

NFGDC states that initially the Company will use the DSIC rate of return on equity for NGDCs set forth in the Commission's latest quarter earnings reports in the future will calculate the rate of return in accordance with 66 Pa. C.S. § 1357.

NFGDC's Exhibit No. 2 presents a Pro-Forma look at the Company's intended DSIC calculation as outlined in witness Koch's testimony and in accordance with the DSIC model tariff. Witness Koch states that for purposes of the pro-forma calculation, and illustrative purposes of National Fuel Exhibit No. 2, the Company estimated DSIC-eligible costs of \$5,000,000 to be placed into service for the period of Aug 1 – Aug 31st, 2024. That amount is then reduced by ADIT of \$28,664 and Accumulated Depreciation of \$85,300. The net DSIC-eligible property amount is then multiplied by

one quarter of an annual return amount, 10.13%. This annual return amount assumes a DSIC rate of return of the current 10.15%, the Company's actual long term debt and capital structure as set forth in the last base rate case, grossed up for taxes. It should be noted that these amounts will be updated for the latest known actual information, at the time of the quarterly DSIC filings. Next, the net DSIC eligible costs are adjusted for State Flow Through Taxes ("STFT") and Depreciation expense. This produces a DSIC revenue requirement of \$142,423 that is compared to the projected quarterly revenue of \$34,603,250 to arrive at the estimated DSIC rate of 0.41%. Statement No. 1, page 6, Lines 1-13.

Comments

No comments were filed regarding the Company's proposed computation of the DSIC.

Resolution

The Commission acknowledges that NFGDC's calculations are only 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 NFGDC 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 NFGDC'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, NFGDC used one-fourth of the annual depreciation expense based on the eligible-property placed in service for the quarter. This calculation is consistent with NFGDC'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, NFGDC 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). NFGDC agreed to abide by the Quarterly Report ROE determinations.⁷ 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 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, NFGDC 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, NFGDC's use of one-

⁷ NFGDC's base rate case at Docket No. R-2022-3035730, Order entered on June 15, 2023, whereby the Commission approved settlement at paragraph 29 states: For purposes of calculating its DSIC, National Fuel shall use the equity return rate for gas utilities contained in the Commission's most recent Quarterly Report (QER) on the Earnings of Jurisdictional Utilities and shall update the equity return rate each quarter consistent with any changes to the equity return rate for gas utilities contained in the most recent QER, consistent with 66 Pa.C.S. § 1357(b)(3), until such time as the DSIC is reset pursuant to the provisions of 66 Pa.C.S. § 1358(b)(1). *See* Rate Case Settlement ¶ 29(b).

fourth of its projected annual distribution revenues as its projected quarterly revenues is appropriate.

(d) Quarterly Updates

NFGDC'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 NFGDC'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), 66 Pa. C.S. § 1307(e), over a one-year period or quarterly period commencing April 1 of each year. If NFGDC 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. NFGDC has suggested such a schedule in the filing of their Proposed Tariff, and hence, the Commission deems NFGDC's tariff to be compliant with Section 1353 of the Code 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

NFGDC's Petition

The Commission's Model Tariff includes customer safeguards which NFGDC has adopted as part of its proposed tariff. In accordance with the Model Tariff and consistent with Section 1358 of the Code, 66 Pa. C.S. § 1358, NFGDC's proposed DSIC Rider also includes the following customer safeguards:

1. A cap on the total amount of distribution revenue that can be collected through the DSIC as determined on an annualized basis, in this case, 5.0%;
2. Annual reconciliations performed by NFGDC;
3. Periodic audit reviews 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;
6. Application of the DSIC to customer classes as explained in NFGDC Statement No. 1; and

7. Provisions for the charge to be set at zero if, in any quarter, NFGDC's most recent earnings report shows that NFGDC 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. NFGDC's Proposed Tariff states: The DSIC shall be applied equally to all customer classes, except that the Company may reduce or eliminate the DSIC to any customer with competitive alternatives who are paying flexed or discounted rates and customers having negotiated contracts with the Company. Additionally, witness Koch states: "Due to competitive and contractual restraints, the Company does not intend to charge the DSIC to negotiated rate customers. Negotiated rate customers are customers who can bypass the Company's system and obtain fuel from other sources or facilities."

Comments

No comments were filed regarding consumer protections.

Resolution

NFGDC's proposed DSIC Tariff is consistent with the Model Tariff and complies with the customer safeguards required by 66 Pa. C.S. § 1358.

(2) Public Interest Considerations

NFGDC'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 of the Code, 66 Pa. C.S. § 1501. The Company notes that as a result of the accelerated programs adopted by NFGDC to meet its obligations to provide safe and reliable service to its customers, the Company has significantly increased the amount it invests in repairing and replacing its distribution infrastructure. Prior to the accelerated program, over the baseline period of 2017 through 2021, NFGDC invested approximately \$23.8 million annually to modernize its distribution infrastructure and replaced approximately 41.3 miles of pipe. For the five years of its proposed LTIIP, NFGDC has committed to an average annual increase in modernization spending of approximately \$15.3 million over the average annual level set forth in the baseline period and an average annual increase in replacement mileage of approximately 11.5 miles over the average annual level set forth in the baseline period.

NFGDC states that by implementing the DSIC:

1. It will permit the Company to continue its accelerated pace for replacing its distribution infrastructure without delay or interruption;
2. Ensure the replacement of aging distribution equipment and facilities to reduce service interruptions, improve public and employee safety, and generally improve the Company's service to its customers;
3. Allow NFGDC an opportunity to replace aging portions of its system and enhance the safety of its system by ensuring replacement of facilities with new, longer lasting and safer materials; and,
4. The public will receive better and safer service consistent with the Company's obligations under the Public Utility Code.

Comments

No comments were received regarding the supporting evidence that NFGDC's DSIC is in the public interest.

Resolution

Section 1353 of the Code, 66 Pa. C.S. § 1353, requires testimony, affidavits, exhibits, and other supporting evidence to be submitted demonstrating that the DSIC is in the public interest. Based on NFGDC's submitted direct testimony by Donald N. Koch and Mark C. Schaefer, 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 of the Code.

(3) Long Term Infrastructure Improvement Plan

Section 1353 of the Code, 66 Pa. C.S. § 1353, requires that a utility have a Commission approved LTIIP in order to be eligible for a DSIC. On September 2, 2022, NFGDC filed its LTIIP Petition, which contained all the applicable elements of 66 Pa. C.S. § 1352(a)(1)-(6) and 52 Pa. Code § 121.1 *et. seq.* The Commission approved NFGDC's LTIIP in an Opinion and Order entered on December 22, 2022.

(4) Base Rate Case

Section 1353(b)(4) of the Code, 66 Pa. C.S. § 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. NFGDC provided the required certification that its last base rate case, under which NFGDC's current base rates were established, was filed on October 28, 2022. A Final Order was entered by the Commission at Docket No. R-2022-3035730 on June 15, 2023.⁸

⁸ See Docket No. R-2022-3035730, Final Order entered on June 15, 2023.

(5) Other Information Required by the Commission

Section 1354 - Customer Notice

Pursuant to Section 1354 of the Code, 66 Pa. C.S. § 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. NFGDC 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*.

NFGDC states that consistent with Act 11 and the Commission's regulations, customers will receive notice of the initial filing of the proposed DSIC Petition through bill inserts subsequent to the time of filing and continuing throughout a 30-day billing cycle and that the Company will begin the bill insert process within seven days of its DSIC filing. Company witness Koch states that the bill inserts will be included in all customer bills for one billing cycle, until all customers have received it. Additionally, upon activation of the first DSIC rate, and quarterly updates thereafter, a bill message will be included in customer bills notifying them of each applicable DSIC rate.⁹

The Commission agrees that this is consistent with the notice requirements set forth in the Model Tariff, Act 11, and the *Final Implementation Order*.

⁹ A copy of the customer notice to be provided is included as National Fuel Exhibit No. 3 to National Fuel Statement No. 1.

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,¹⁰ based on current practice and procedure for water companies. (See 66 Pa. C.S. § 1358). NFGDC requested permission to implement its DSIC for bills rendered on and after October 1, 2024 for plant placed in service on and after August 1, 2024, consistent with the terms of its Rate Case Settlement.

Section 1355 – Commission Review

Section 1355 of the Code, 66 Pa. C.S. § 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 NFGDC’s proposed DSIC Rider and has determined that the filing contains all necessary items identified in Section 1353 of the Code.

Section 1355 of the Code, 66 Pa.C.S. § 1355, also states that the Commission shall hold evidentiary and public input hearings as necessary to review the petition. As noted above, the OSBA filed a Notice of Intervention and Public Statement to NFGDC’s DSIC petition but did not request evidentiary hearings.¹¹ No other comments were received, and no other parties intervened in the case.

¹⁰ “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.

¹¹ On May 7, 2024, the OSBA filed a Notice of Intervention which requested that the Petition be subject to investigation and evidentiary hearings before the Commission. On October 11, 2024, however, the OSBA clarified that it was not requesting a hearing before the Office of Administrative Law Judge in this matter.

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, 2025;
2. A three-month period of September through November for eligible plant additions¹²;
3. An appropriate return on equity as displayed in the Commission's Quarterly Report for the period ending June 30, 2024; and,
4. An initial quarterly depreciation expense being equal to the initial accumulated depreciation.

CONCLUSION

Upon review, the Commission finds that the Petition of NFGDC 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. National Fuel Gas Distribution Corporation may elect to implement a DSIC mechanism consistent with this order on ten days' notice; **THEREFORE,**

IT IS ORDERED:

¹² NFGDC 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-2022-3035730.

1. That the Petition for approval of a Distribution System Improvement Charge filed by National Fuel Gas Distribution Corporation is approved, consistent with this Order.

2. That National Fuel Gas Distribution Corporation shall file a tariff, consistent with this Order and in accordance with the Commission's Model Tariff included as Appendix A to the Commission's Supplemental Implementation Order entered on October 27, 2022 at Docket No. M-2012-2293611, on ten days' notice to be effective January 1, 2025.

3. That National Fuel Gas Distribution Corporation shall provide the estimated number of anticipated new jobs to be created for specific replacement projects with its revised initial DSIC tariff. Additionally, National Fuel Gas Distribution Corporation 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: December 5, 2024

ORDER ENTERED: December 5, 2024