

<h1>Regulatory Analysis Form</h1> <p>(Completed by Promulgating Agency)</p> <p>(All Comments submitted on this regulation will appear on IRRC's website)</p>		<p>INDEPENDENT REGULATORY REVIEW COMMISSION</p> <p style="text-align: right;">2013 OCT -3 AM 11:31</p>	
(1) Agency Pennsylvania Public Utility Commission			
(2) Agency Number: L-2012-2317274 Identification Number:		<p>3032</p> <p>IRRC Number: 57-294</p>	
(3) PA Code Cite: 52 Pa. Code §§ 121.1-121.8			
(4) Short Title: Review of Long Term Infrastructure Improvement Plans			
(5) Agency Contacts (List Telephone Number and Email Address): Primary Contact: David E. Screven, 717-787-5000, dscreven@pa.gov Secondary Contact:			
(6) Type of Rulemaking (check applicable box):			
<input checked="" type="checkbox"/> Proposed Regulation <input type="checkbox"/> Final Regulation <input type="checkbox"/> Final Omitted Regulation		<input type="checkbox"/> Emergency Certification Regulation; <input type="checkbox"/> Certification by the Governor <input type="checkbox"/> Certification by the Attorney General	
(7) Briefly explain the regulation in clear and nontechnical language. (100 words or less)			
<p>The Distribution System Improvement Charge (DSIC) mechanism now allows electric distribution companies, natural gas distribution companies, wastewater utilities, and city natural gas operations, like water utilities previously, to recover the reasonable and prudently incurred costs related to the repair, improvement, and replacement of utility infrastructure. However, a utility cannot implement a DSIC mechanism to recover these costs until it files a long term infrastructure improvement (LTIP) with the PaPUC and the LTIP is approved. <i>See</i> 66 Pa. C.S. § 1352(a). The (LTIP) is a necessary component of a DSIC petition. <i>See</i> 66 Pa. C.S. § 1353(b)(3). The purpose of a LTIP is to ensure that utilities are planning and executing capital expenditures that will maintain and improve the efficiency, safety, adequacy and reliability of existing distribution infrastructure at a faster pace than they have done historically. The proposed rulemaking sets forth the elements a LTIP must contain and outlines the procedures and process for the filing and review of LTIPs.</p>			
(8) State the statutory authority for the regulation. Include <u>specific</u> statutory citation.			
<p>66 Pa. C.S. §§ 501, 1352, 1353(b)(3) and 1501; Commonwealth Documents Law, Act of July 31, 1968, P.L. 769, <i>as amended</i>, 45 P.S. §§1201, <i>et seq.</i>, and the regulations promulgated thereunder, at 1 Pa. Code §§ 7.1-7.4,</p>			

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(9) Is the regulation mandated by any federal or state law or court order, or federal regulation? Are there any relevant state or federal court decisions? If yes, cite the specific law, case or regulation as well as, any deadlines for action.

66 Pa. C.S. §§ 1352(a) and (b), 1353(b)(3).

(10) State why the regulation is needed. Explain the compelling public interest that justifies the regulation. Describe who will benefit from the regulation. Quantify the benefits as completely as possible and approximate the number of people who will benefit.

The LTIP is a necessary component of a DSIC petition and must be filed and approved prior to the implementation of the DSIC. 66 Pa. C.S. § 1353(b)(3). While past actions of the utilities have generally demonstrated that they were pursuing a balanced course between maintenance and replacement schedules, much of the infrastructure has reached the point where repair has diminishing returns and replacement must be accomplished. The purpose of a LTIP is to ensure that utilities are planning and executing capital expenditures that will maintain and improve the efficiency, safety, adequacy and reliability of existing distribution infrastructure at a faster pace than they have done historically. The scope of the LTIP is limited to only “eligible property” (or DSIC-eligible plant), for which the utility is seeking DSIC recovery so it will not allow for “gold-plating” by utilities. Moreover, given the age of the existing infrastructure throughout the Commonwealth, especially the natural gas distribution infrastructure with its proliferation of cast iron and bare steel pipes, a LTIP will assist a utility in prioritizing those portions of its system that needs to be improved for safety and reliability purposes.

The time frame of the LTIP is also planned to be forward-looking enough for utilities to make accurate predictions and provide sufficient time for long-term planning of planned repairs and replacement of eligible property. The LTIP plan will include a schedule for the planned repair and replacement of eligible property (*See* 66 Pa. C.S. § 1352(a)(2)) and should also reflect and maintain an *acceleration* of infrastructure replacement over the utility’s historic level of capital improvement.

Additionally, the importance of including workforce management plans in a LTIP ensures that a utility will have access to a qualified workforce to perform work in a cost-effective, safe and reliable manner. Furthermore, a LTIP will provide a description of a utility’s outreach and coordination activities with other utilities, Pennsylvania Department of Transportation (PennDOT) and local governments regarding their planned maintenance/construction projects and roadways that may be impacted by the plan. This will allow for utilities to coordinate their maintenance efforts so they can minimize multiple disruptions to location where projects may overlap.

The repair and improvement of the utility’s infrastructure will provide ratepayers with improved service quality and greater rate stability as aging infrastructure is replaced at an accelerated pace, which will result in fewer main breaks, less frequent service interruptions, increased safety, and lower levels of unaccounted-for natural gas and wastewater.

Lastly, having a LTIP on file allows the PaPUC to determine whether a utility’s DSIC mechanism is serving its intended purpose of “maintaining, enhancing or modernizing” the utility’s facilities.

(11) Are there any provisions that are more stringent than federal standards? If yes, identify the specific provisions and the compelling Pennsylvania interest that demands stronger regulations.

N/A

(12) How does this regulation compare with those of the other states? How will this affect Pennsylvania's ability to compete with other states?

Pennsylvania was the first state in the nation to enact and use the DSIC for its water utilities resulting in significant system improvements with no detrimental rate effects on customers. Prior to the DSIC, the water utilities projected that it would take about 225 years to upgrade their entire systems. Now, with the implementation of DSIC, the projected amount of time for upgrades to their distribution system is about 117 years – a timeframe that more closely matches the expected service life of the system.

Since that time, Pennsylvania's DSIC model has become a national "best practice" and seven other states have now adopted mechanisms similar to Pennsylvania's water DSIC. Due in large part to the DSIC, the PUC was recognized by Standard & Poor's for effectively encouraging water company investment in infrastructure improvements. The DSIC has also been recognized in a resolution passed by the National Association of Regulatory Utility Commissioners (NARUC) as a national best practice regulatory tool. In addition, the Council of State Governments included DSIC in its model legislation. The DSIC is one of the most important regulatory tools of the past decade, and it was created in Pennsylvania.

Act 11 now permits electric distribution companies, natural gas distribution companies, wastewater utilities, and city natural gas operations, like water utilities previously, to recover the reasonable and prudently incurred costs related to the repair, improvement, and replacement of utility infrastructure. The LTIP ensures that utilities are planning and executing capital expenditures that will maintain and improve the efficiency, safety, adequacy and reliability of existing distribution infrastructure at a faster pace than they have done historically.

The United State Department of Transportation's Pipeline and Hazardous Materials Safety Administration (PHMSA) noted that Pennsylvania does not have a formal accelerated cast iron replacement program and urged the PUC to develop and implement one. Pennsylvania is one of four states with over 50% of all cast iron pipeline miles. PHMSA asserts that it is critical for Pennsylvania to address the risk of cast iron pipelines, especially in the wake of tragic consequences of the cast iron failures in Allentown and Philadelphia. (See July 12, 2011 PHMSA letter)

(13) Will the regulation affect any other regulations of the promulgating agency or other state agencies? If yes, explain and provide specific citations.

The safety, adequacy, and reliability of water, wastewater, gas, and electric utility service provided by jurisdictional utilities, as mandated by 66 Pa. Code § 1501, depend, in large measure, upon the quality, age, and reliability of the infrastructure these fixed utilities have in place. Some of this infrastructure is over 70 years old. Since this proposed regulation deals with the repair and replacement of utility infrastructure it will bolster the PaPUC's regulations addressing the safety and reliability of jurisdictional NGDCs, EDCs and water and wastewater utilities. *See* 52 Pa. Code §§ 57.191-57.197, 62.31-62.37, 65.1-65.23.

(14) Describe the communications with and solicitation of input from the public, any advisory council/group, small businesses and groups representing small businesses in the development and drafting of the regulation. List the specific persons and/or groups who were involved. ("Small business" is defined in Section 3 of the Regulatory Review Act, Act 76 of 2012.)

On April 5, 2012, the Commission held a working group meeting with stakeholders regarding implementation of Act 11. In particular, we sought input from the stakeholders on the following key topics in advance of issuing a Tentative Implementation Order:

- Elements of a model DSIC tariff, including the necessary computation, reconciliation and consumer protection provisions (audits, reconciliations, percent caps and re-set to zero);
- Elements of and standards for approval of a LTIP, ability to use previously approved plans, and subsequent periodic review parameters;
- Establishing a baseline for the current rate of infrastructure improvement;
- Examination of the relationship between the LTIP under Act 11 and the NGDC pipeline replacement and performance plans required by Commission order at Docket No. M-2011-2271982;
- Determination of the equity return rate when more than 2 years have elapsed between the effective date of a final order in a base rate case and the effective date of the DSIC; and
- Standards to establish and ensure that DSIC work is performed by "qualified employees" of either the utility or an independent contractor.

On May 11, 2012, the Commission entered a Tentative Implementation Order at Docket No. M-2012-2293611 that reflected stakeholders' concerns; set out a model draft tariff; proposed procedures and guidelines necessary to implement Act 11, including a DSIC process for investor-owned energy utilities, city natural gas distribution operations, and wastewater utilities; and set forth procedures to facilitate the transition from Section 1307(g) water DSIC procedures to Act 11 DSIC procedures.

The Tentative Implementation Order called for comments. Comments were received from various EDCs, NGDCs and water utilities. The Commission reviewed the comments and at its August 2, 2012 Public Meeting adopted a Final Implementation Order, which established procedures and guidelines to carry out the ratemaking provisions of Act 11 in Chapters 3 and 13.

(15) Identify the types and number of persons, businesses, small businesses (as defined in Section 3 of the Regulatory Review Act, Act 76 of 2012) and organizations which will be affected by the regulation. How are they affected?

Jurisdictional EDCs, NGDCs and city natural gas distribution operations, seeking to implement a DSIC mechanism must first file a LTIP with the Commission. Water and wastewater utilities may also file a LTIP with the Commission.

(16) List the persons, groups or entities, including small businesses that will be required to comply with the regulation. Approximate the number that will be required to comply.

Electric Distribution Companies: Citizens Electric Of Lewisburg, Duquesne Light Company, Pennsylvania Power Company, Metropolitan Edison Company, Pennsylvania Electric Company, PPL Electric Utilities, PECO Energy Company, Pike County Light & Power Company, UGI Utilities Inc., Wellsboro Electric Company, West Penn Power

Natural Gas Distribution Companies: Chartiers Natural Gas Company, Inc., Columbia Gas Of Pennsylvania, Inc., Equitable Gas Company, North East Heat & Light Company, National Fuel Gas Distribution Corporation, PECO Gas, Peoples Natural Gas Company LLC, Peoples TWP LLC, Philadelphia Gas Works, Pike County Light & Power Company (Gas), UGI Central Penn Gas, UGI Penn Natural Gas, UGI Utilities Inc., Valley Energy

95 water utilities and 59 wastewater utilities.

(17) Identify the financial, economic and social impact of the regulation on individuals, small businesses, businesses and labor communities and other public and private organizations. Evaluate the benefits expected as a result of the regulation.

The aging infrastructure has reached the point where the balance between repair and replacement is now tipped in the direction of replacement. A LTIP will assist a utility in prioritizing those portions of its system that need to be improved for safety and reliability purposes. This will provide ratepayers with improved service quality and greater rate stability as aging infrastructure is replaced at an accelerated pace, which will result in fewer main breaks, less frequent service interruptions, increased safety, and lower levels of unaccounted-for natural gas and wastewater.

The infrastructure replacement will also help create hundreds of jobs — utility positions and pipeline contractors — needed to support the infrastructure replacement program. The LTIP directs that the utility utilize qualified workforce to perform the work in a cost-effective, safe and reliable manner.

(18) Explain how the benefits of the regulation outweigh any cost and adverse effects.

Given the age of the existing infrastructure throughout the Commonwealth, a LTIP will assist a utility in prioritizing those portions of its system that need to be improved for safety and reliability purposes. The purpose of a LTIP is to ensure that utilities are planning and executing capital expenditures that will maintain and improve the efficiency, safety, adequacy and reliability of existing distribution infrastructure at a faster pace than they have done historically. The scope of the LTIP is limited to only “eligible property” (or DSIC-eligible plant), for which the utility is seeking DSIC recovery so it will not allow for “gold-plating” by utilities. This will provide ratepayers with improved service quality and greater rate stability as aging infrastructure is replaced at an accelerated pace, which will result in fewer main breaks, less frequent service interruptions, increased safety, and lower levels of unaccounted-for natural gas and wastewater. The coordination efforts amongst the utilities, PennDOT and local municipalities, which is set forth in the LTIP, will lessen the disruption to residents and the traveling public.

(19) Provide a specific estimate of the costs and/or savings to the **regulated community** associated with compliance, including any legal, accounting or consulting procedures which may be required. Explain how the dollar estimates were derived.

The LTIP ensures that utilities are planning and executing capital expenditures that will maintain and improve the efficiency, safety, adequacy and reliability of existing distribution infrastructure at a faster pace than they have done historically. The LTIP and associated DSIC will allow utilities to remove deteriorating portions of their systems and enhance the safety of their systems by ensuring replacement of facilities with newer, longer-lasting and safer materials. As a result, the public will receive better, more reliable service with fewer interruptions.

While it is difficult to predict the potential savings from the LTIP due to varying conditions of each utilities’ facilities, one natural gas distribution company has estimated avoided costs of avoided repairs at over \$37,500 annually or \$187,500 for the five-year term of their LTTIP. These are only the material costs and simple repair costs and do not include the potential savings in lost property damages or prevention of fatalities that could occur from explosions from natural gas leaks.

Additionally, traditional rate cases require extensive pre-filing preparation and take almost a year to complete. At the same time, utilities have been making infrastructure investment between rate cases. Generally, there was a lag between when a utility made the investment in infrastructure and when it was authorized to collect rates designed to recover its capital investment, which was only after the rate case was completed. However, with the implementation of the DSIC mechanism, a utility can now recover its prudently incurred capital expenditures between rate cases.

Rate cases are costly, time-consuming, adversarial, on-the-record proceedings that cover all potential issues regarding revenue requirements and rate structure and, as such, do not focus exclusively on infrastructure replacement needs and the associated costs. Thus, a utility is able to recover its prudently incurred capital expenditures while avoiding the base rate case expenses. As it pertains to potential rate case expense savings, the following is some information on a couple of recent rate cases that were before the PaPUC:

Columbia Gas (R-2012-2321748) claimed a total rate case expense of \$556,380.

PPL (R-2012-2290597) claimed a total rate case expense of \$2.025 million.

The PaPUC is not able to adequately quantify or estimate these savings over a large array of utilities and an extended time period; but we believe that utilities will have to file one less rate case every five years as a result of DSIC implementation and we expect them to save an average of \$1 million over that time period in the form of reduced rate case expense.

(20) Provide a specific estimate of the costs and/or savings to the **local governments** associated with compliance, including any legal, accounting or consulting procedures which may be required. Explain how the dollar estimates were derived.

Replacing aging facilities in coordination with planned municipal paving projects could reduce the costs of these projects.

(21) Provide a specific estimate of the costs and/or savings to the **state government** associated with the implementation of the regulation, including any legal, accounting, or consulting procedures which may be required. Explain how the dollar estimates were derived.

Likewise, the utilities' coordination efforts with DOT on construction projects will help lessen the costs expended by PennDOT of the project when underground facilities have to be relocated.

(22) For each of the groups and entities identified in items (19)-(21) above, submit a statement of legal, accounting or consulting procedures and additional reporting, recordkeeping or other paperwork, including copies of forms or reports, which will be required for implementation of the regulation and an explanation of measures which have been taken to minimize these requirements.

Here are the Docket Nos. to the LTIPs before the PaPUC:

P-2013-2342745
P-2013-2347340
P-2013-2344595
P-2013-2344596
P-2012-2337377
P-2012-2338282
P-2011-2325034

These can be found on the PaPUC's website <http://www.puc.state.pa.us/> under the Search for Documents tab.

(23) In the table below, provide an estimate of the fiscal savings and costs associated with implementation and compliance for the regulated community, local government, and state government for the current year and five subsequent years. See answers to (19), (20) and (21).

	Current FY Year	FY +1 Year	FY +2 Year	FY +3 Year	FY +4 Year	FY +5 Year
SAVINGS:	\$	\$	\$	\$	\$	\$
Regulated Community						
Local Government						
State Government						
Total Savings						
COSTS:						
Regulated Community						
Local Government						
State Government						
Total Costs						
REVENUE LOSSES:						
Regulated Community						
Local Government						
State Government						
Total Revenue Losses						

(23a) Provide the past three year expenditure history for programs affected by the regulation. See answers to (19), (20) and (21).

Program	FY -3	FY -2	FY -1	Current FY

(24) For any regulation that may have an adverse impact on small businesses (as defined in Section 3 of the Regulatory Review Act, Act 76 of 2012), provide an economic impact statement that includes the following:

- (a) An identification and estimate of the number of small businesses subject to the regulation.
- (b) The projected reporting, recordkeeping and other administrative costs required for compliance with the proposed regulation, including the type of professional skills necessary for preparation of the report or record.
- (c) A statement of probable effect on impacted small businesses.
- (d) A description of any less intrusive or less costly alternative methods of achieving the purpose of the proposed regulation.

N/A

(25) List any special provisions which have been developed to meet the particular needs of affected groups or persons including, but not limited to, minorities, the elderly, small businesses, and farmers.

N/A

(26) Include a description of any alternative regulatory provisions which have been considered and rejected and a statement that the least burdensome acceptable alternative has been selected.

N/A

(27) In conducting a regulatory flexibility analysis, explain whether regulatory methods were considered that will minimize any adverse impact on small businesses (as defined in Section 3 of the Regulatory Review Act, Act 76 of 2012), including:

- a) The establishment of less stringent compliance or reporting requirements for small businesses;
- b) The establishment of less stringent schedules or deadlines for compliance or reporting requirements for small businesses;
- c) The consolidation or simplification of compliance or reporting requirements for small businesses;
- d) The establishment of performing standards for small businesses to replace design or operational standards required in the regulation; and
- e) The exemption of small businesses from all or any part of the requirements contained in the regulation.

N/A

(28) If data is the basis for this regulation, please provide a description of the data, explain in detail how the data was obtained, and how it meets the acceptability standard for empirical, replicable and testable data that is supported by documentation, statistics, reports, studies or research. Please submit data or supporting materials with the regulatory package. If the material exceeds 50 pages, please provide it in a searchable electronic format or provide a list of citations and internet links that, where possible, can be accessed in a searchable format in lieu of the actual material. If other data was considered but not used, please explain why that data was determined not to be acceptable.

N/A

(29) Include a schedule for review of the regulation including:

- | | |
|---|---------------------------------------|
| A. The date by which the agency must receive public comments: | <u>45 days after publication</u> |
| B. The date or dates on which public meetings or hearings will be held: | <u>N/A</u> |
| C. The expected date of promulgation of the proposed regulation as a final-form regulation: | <u>4th quarter of 2013</u> |
| D. The expected effective date of the final-form regulation: | <u>Upon publication</u> |
| E. The date by which compliance with the final-form regulation will be required: | <u>N/A</u> |
| F. The date by which required permits, licenses or other approvals must be obtained: | <u>N/A</u> |

(30) Describe the plan developed for evaluating the continuing effectiveness of the regulations after its implementation.

The proposed regulation itself provides for a periodic review of a PaPUC-approved LTIP. Accordingly, the regulation will be reviewed on an on-going basis or as-needed basis so that the periodic review and the information required to be set forth in the LTIP is effective.

2013 OCT -3 AM 11:31

**FACE SHEET
FOR FILING DOCUMENTS
WITH THE LEGISLATIVE REFERENCE BUREAU**

(Pursuant to Commonwealth Documents Law)

DO NOT WRITE IN THIS SPACE

Copy below is hereby approved as to form and legality. Attorney General.

Amy M. Elliott

BY _____
(DEPUTY ATTORNEY GENERAL)

JUN 25 2013

DATE OF APPROVAL

Copy below is hereby certified to be true and correct copy of a document issued, prescribed or promulgated by:

Pennsylvania Public Utility Commission
(AGENCY)

DOCUMENT/FISCAL NOTE NO. L-2012-2317274/57-294

DATE OF ADOPTION March 14, 2013

Rosemary Chiavetta

BY _____
Rosemary Chiavetta

TITLE Secy
(SECRETARY)

Copy below is hereby approved as to form and legality. Executive or independent Agencies.

Bohdan R. Pankiw

BY _____
Bohdan R. Pankiw
Chief Counsel

3-14-2013

DATE OF APPROVAL

Check if applicable
Copy not approved. Objections attached

Check if applicable. No Attorney General approval or objection within 30 days after submission.

L-2012-2317274/57-294
Proposed Rulemaking
Review of Long-Term Infrastructure
Improvement Plan
52 Pa Code, Chapter 121

The Pennsylvania Public Utility Commission on March 14, 2013, adopted a proposed rulemaking order which sets forth regulations for filing a Long-Term Infrastructure Improvement Plan to ensure that utilities are planning and executing expenditures that will maintain and improve safety, adequacy and reliability of existing distribution infrastructure. The contact person is Assistant Counsel David Screven, Law Bureau, 717 787-2126.

EXECUTIVE SUMMARY

L-2012-2317274/57-294

Proposed Rulemaking
Establishing Review of Long-Term Infrastructure Improvement Plans

52 Pa. Code §§ 121.1-121.8

On February 14, 2012, Governor Corbett signed into law Act 11 of 2012 (Act 11), which, *inter alia*, authorizes water and wastewater utilities, electric distribution companies (EDCs), and natural gas distribution companies (NGDCs) or a city natural gas distribution operation to petition for a distribution system improvement charge (DSIC). *See* 66 Pa. C.S. §1353.

The DSIC is a ratemaking mechanism that allows for the recovery of prudently incurred costs related to the repair, improvement and replacement of eligible utility infrastructure through a surcharge that is subject to reconciliation, audit and other consumer protections. A precondition to obtaining approval of a DSIC is the filing and approval of a long-term infrastructure improvement plan (LTIIP). 66 Pa. C.S. §§ 1352 and 1353(b)(3). The purpose of a LTIIP is to ensure that utilities are planning and executing capital expenditures that will maintain and improve the efficiency, safety, adequacy and reliability of existing distribution infrastructure at a faster pace than they have done historically.

On May 11, 2012, the Commission entered a Tentative Implementation Order at Docket No. M-2012-2293611 that proposed procedures and guidelines necessary to implement Act 11, including the elements of and standards for approval of a LTIIP, the ability to use previously approved plans, and the subsequent periodic review parameters of the LTIIP. The Tentative Implementation Order called for comments. Comments were received from various EDCs, NGDCs and water utilities. The Commission reviewed the comments and at its August 2, 2012 Public Meeting adopted a Final Implementation Order. Specifically, the Final Implementation Order, *inter alia*, set forth the elements a LTIIP must contain and outlined the procedures and process for the filing and review of LTIIPs. Accordingly, the proposed rulemaking incorporates many of the aspects already discussed in the Final Implementation Order.

The contact person for this proposed rulemaking is David E. Screven, 717-787-5000 (legal).

**PENNSYLVANIA
PUBLIC UTILITY COMMISSION
Harrisburg, PA 17105-3265**

Public Meeting held March 14, 2013

Commissioners Present:

Robert F. Powelson, Chairman
John F. Coleman, Jr., Vice Chairman
Wayne E. Gardner
James H. Cawley
Pamela A. Witmer

Review of Long-Term Infrastructure
Improvement Plan

L-2012-2317274

PROPOSED RULEMAKING ORDER

BY THE COMMISSION:

On February 14, 2012, Governor Corbett signed into law Act 11 of 2012 (Act 11), which amends Chapters 3, 13 and 33 of the Pennsylvania Public Utility (Code). 66 Pa. C.S. §§ 308, 1307, 1311, 1327 and 1350-1360. Act 11 authorizes water and wastewater utilities, electric distribution companies (EDCs), and natural gas distribution companies (NGDCs) or a city natural gas distribution operation to petition for a distribution system improvement charge (DSIC). *See* 66 Pa. C.S. §1353.

The DSIC is a ratemaking mechanism that allows for the recovery of prudently incurred costs related to the repair, improvement and replacement of eligible utility infrastructure through a surcharge that is subject to reconciliation, audit and other consumer protections. A precondition to obtaining approval of a DSIC is the filing and approval of a long-term infrastructure improvement plan (LTIIIP). 66 Pa. C.S. § 1352. This proposed rulemaking establishes the procedures and criteria for the filing and subsequent periodic review of LTIIIPs.

Background

On April 5, 2012, the Commission held a working group meeting with stakeholders regarding implementation of Act 11. In particular, we sought input from the stakeholders on the following key topics in advance of issuing a Tentative Implementation Order:

- Elements of a model DSIC tariff, including the necessary computation, reconciliation and consumer protection provisions (audits, reconciliations, percent caps and re-set to zero);
- Elements of and standards for approval of a LTIP, ability to use previously approved plans, and subsequent periodic review parameters;
- Establishing a baseline for the current rate of infrastructure improvement;
- Examination of the relationship between the LTIP under Act 11 and the NGDC pipeline replacement and performance plans required by Commission order at Docket No. M-2011-2271982;
- Determination of the equity return rate when more than 2 years have elapsed between the effective date of a final order in a base rate case and the effective date of the DSIC; and
- Standards to establish and ensure that DSIC work is performed by “qualified employees” of either the utility or an independent contractor.

On May 11, 2012, the Commission entered a Tentative Implementation Order at Docket No. M-2012-2293611 that reflected stakeholders’ concerns; set out a model draft tariff; proposed procedures and guidelines necessary to implement Act 11, including a DSIC process for investor-owned energy utilities, city natural gas distribution operations,

and wastewater utilities; and set forth procedures to facilitate the transition from Section 1307(g) water DSIC procedures to Act 11 DSIC procedures.

The Tentative Implementation Order called for comments. Comments were received from various EDCs, NGDCs and water utilities. The Commission reviewed the comments and at its August 2, 2012 Public Meeting adopted a Final Implementation Order, which established procedures and guidelines to carry out the ratemaking provisions of Act 11 in Chapters 3 and 13.

Discussion

The DSIC mechanism, enacted via Act 11, now allows EDCs, NGDCs, wastewater utilities, and city natural gas operations, like water utilities previously, to recover the reasonable and prudently incurred costs related to the repair, improvement, and replacement of utility infrastructure. The LTIP is a necessary component of a DSIC petition. 66 Pa. C.S. § 1353(b)(3). The purpose of a LTIP is to ensure that utilities are planning and executing capital expenditures that will maintain and improve the efficiency, safety, adequacy and reliability of existing distribution infrastructure at a faster pace than they have done historically. However, water utilities with a previously-approved DSIC are not required to file a LTIP unless otherwise directed by the Commission. *See* 66 Pa. C.S. § 1360.

As mentioned above, the Final Implementation Order addressed various procedures and guidelines regarding the implementation of Act 11. Specifically, the Final Implementation Order set forth the elements a LTIP must contain and outlined the procedures and process for the filing and review of LTIPs. Accordingly, this proposed rulemaking will incorporate many of the aspects already discussed in the Final Implementation Order.

In the Final Implementation Order, the Commission determined that the following six elements must be included in a proposed LTIIIP: (1) types and age of eligible property; (2) schedule for its planned repair and replacement; (3) location of the eligible property; (4) reasonable estimate of the quantity of property to be improved; (5) projected annual expenditures and measures to ensure that the plan is cost effective; and (6) manner in which replacement of aging infrastructure will be accelerated *and* how repair, improvement or replacement will maintain and ensure adequate, efficient, safe, reliable and reasonable service to customers. Additionally, the Commission highlighted the importance of including workforce management plans in a LTIIIP and its view that the acquisition of qualified personnel is essential to the successful implementation of any long-term plan to improve infrastructure. Accordingly, we stated that a workforce management and training plan designed to ensure that a utility will have access to a qualified workforce to perform work in a cost-effective, safe and reliable manner is also a necessary element of a LTIIIP.

While the Commission recently decided against establishing a separate Pipeline Replacement and Performance Plan filing process at Docket M-2011-2271982¹, because it would be duplicative of the Act 11 DSIC regulatory process, specifically, the filing of LTIIIPs; we nevertheless determined that we would order additional actions from NGDCs if necessary in order to safeguard the public. Accordingly, we determine that each NGDC filing a LTIIIP should also include as an element of their respective LTIIIP, a description of its plan to address damage prevention, corrosion control, emergency response times and identification of critical valves. Given the age of the existing natural gas distribution infrastructure throughout the Commonwealth, we believe that it is necessary that the NGDCs submit this information and indicate how their LTIIIPs prioritize gas system

¹ Natural Gas Pipeline Replacement and Performance Plans, Docket No. M-2011-2271982 (Order entered February 28, 2013).

safety and reliability. This particular element will be incorporated into proposed section 121.3 and will apply only to NGDCs.

Additionally, we note the implementation of a DSIC mechanism may lead to numerous maintenance and construction projects by the utilities. This could lead to significant disruptions as utilities perform work in the right of ways of the roadways and streets across the Commonwealth in order to replace or repair their infrastructure. We believe it is prudent for utilities to coordinate their maintenance efforts so they can minimize multiple disruptions to location where projects may overlap. Therefore, we will direct that a utility, as a part of its LTIP, should provide a description of its outreach and coordination activities with other utilities, Pennsylvania Department of Transportation (PennDOT) and local governments regarding their planned maintenance/construction projects and roadways that may be impacted by the plan.

In the Final Implementation Order, we also stated that a LTIP should include a review of all eligible distribution plant property, as defined in 66 Pa. C.S. § 1351, including its inventory, age, functionalities, reliability and performance. By limiting the plan to only “eligible property,” we mean eligible property for which DSIC treatment is sought (DSIC-eligible plant). We determined that it was unnecessary for a utility to provide extensive data regarding components of its distribution system for which it is not seeking DSIC recovery. Accordingly, LTIPs need only address the specific property eligible for DSIC recovery.

In the Final Implementation Order, we established the time frame that a LTIP must cover. We determined that a five-to-ten year term for a LTIP is appropriate as this time period is forward-looking enough for utilities to make accurate predictions and also provides sufficient time for long-term planning of planned repairs and replacement of eligible property. However, we also suggested that any such plan should coincide with

longer term plans that address specific goals, including cast iron replacement plans and bare steel replacement plans, and that such plans meet overall system replacement goals.

A proposed LTIIIP plan must include a schedule for the planned repair and replacement of eligible property. *See* 66 Pa. C.S. § 1352(a)(2). A proposed LTIIIP should also reflect and maintain an *acceleration* of infrastructure replacement over the utility's historic level of capital improvement. As we noted in the Final Implementation Order, some utilities have taken substantial steps recently to increase prudent capital investment to address their aging infrastructure and we believe that the five-to-ten year timeframe established for a LTIIIP should reflect how the DSIC will maintain or augment acceleration of infrastructure replacement and prudent capital investment.

The utility has the burden of proof to demonstrate, in accordance with section 1352(a), that the proposed LTIIIP and associated expenditures are reasonable and cost effective and are designed to ensure and maintain adequate, efficient, safe, reliable and reasonable service to customers. This burden of proof is also consistent with section 1501 of the Code, 66 Pa. C.S. § 1501.

Furthermore, we believe that a utility must always have a LTIIIP on file so that the Commission has a means to determine whether a utility's DSIC mechanism is serving its intended purpose. Accordingly, we determine that a utility shall file a new proposed LTIIIP at least 120 days prior to the expiration of its currently filed LTIIIP. This will allow the Commission and interested persons adequate time to review the new proposed LTIIIP before the existing LTIIIP term expires. Any new plan filed subsequent to the first Commission-approved LTIIIP must also include the elements set forth in 66 Pa. C.S. § 1352. The proposed regulations will adopt this schedule in section 121.5.

Lastly, we required utilities to serve copies of their proposed LTIIIPs on the statutory advocates as well as all of the active parties in the utility's most recent base rate proceeding.² We also determined that the proposed LTIIIP will be initially assigned to staff of the Bureau of Technical Utility Services (TUS) for analysis and a recommendation to the Commission. Interested parties will be given 20 days to file comments to the proposed LTIIIP. If, upon review, the comments raise material factual issues, the proposed LTIIIP will then be referred to the Office of Administrative Law Judge (OALJ) for hearing and the issuance of a recommended decision. Regardless, we generally established a period of 120 days for review of each proposed LTIIIP.

A Commission-approved LTIIIP is subject to a periodic subsequent review by the Commission. In the Final Implementation Order, we acknowledged that there may be a need for utility management to have the flexibility to deviate from a previously approved LTIIIP, if certain circumstances arise, such as when variations in construction expenditures occur within a given year. Accordingly, the proposed regulations will allow utility management the flexibility and discretion to make major and minor changes as needed, so long as the utility identifies reasonable operational, financial, or other justifications for deviating from its approved plan.

However, *major* modifications or deviations to the LTIIIP necessitate the filing of a Petition for Modification that will be subject to public notice and Commission approval. In the Commission's judgment, major changes, modifications or deviations from the LTIIIP are those that: (1) eliminate a category of eligible property from the plan; (2) extend the schedule for repair, improvement or replacement of a category of eligible

² While we believe that a LTIIIP is subject to public review, if a utility believes that any portion of the information contained in the LTIIIP qualifies as Confidential Security Information under 35 P.S. § 2141 or should be afforded proprietary and confidential treatment, the utility must request proprietary treatment of such information pursuant to a protective order. *See* 52 Pa. Code § 5.423 (Propriety Information) and 52 Pa. Code §§ 102.1 – 102.4 (Confidential Security Information). A LTIIIP will not automatically receive proprietary and confidential status.

property by more than 2 years; (3) increase the *total* estimated cost of the plan by more than 15%; or (4) otherwise reflect a substantial change to the current Commission-approved LTIP.³ Conversely, minor modifications to a LTIP that are changes that do not qualify as major changes as defined in proposed section 121.2 can and will be addressed concurrent with Staff's review of the utility's Annual Asset Optimization Plan.

Additionally, in regard to any future dispute as to whether the utility has adhered to the Commission-approved LTIP, which is a condition for the ability to maintain its DSIC mechanism, 66 Pa. C.S. § 1353(b)(2), a utility will be afforded notice and an opportunity to be heard before its DSIC is terminated for non-compliance with an approved LTIP or other violations of Act 11. The proposed regulations set forth the procedures for the periodic review of an approved LTIP.

Furthermore, we note that section 1356 of Act 11, 66 Pa. C.S. § 1356, requires a utility with an approved DSIC to file an Annual Asset Optimization Plan (AAO plan). The AAO plan elements are as follows: (1) a description of all eligible property repaired, improved and replaced in the preceding 12 months and (2) a detailed description of all facilities to be improved in the upcoming 12 months. Since the AAO plan is to be filed annually, the Commission believes it is appropriate to set a uniform filing date of March 1 for all utilities with a DSIC to file their AAO plans with the Commission, rather than adopting the anniversary of the utility's implementation of its DSIC, which will vary from utility to utility.

As we stated in the Final Implementation Order, the AAO plan is intended to provide the Commission and the public with an overall status report regarding a utility's progress in making infrastructure improvements pursuant to its Commission-approved

³ Comments are invited regarding these proposed parameters for the definition of "major" modification to a Commission-approved LTIP.

LTIIP. We also believe that the AAO plans will be a beneficial tool for the Commission when it conducts its overall periodic review of a utility's approved LTIIP. The Commission expects the AAO plan to demonstrate a utility's compliance and progress in meeting its LTIIP and to identify the utility's near-term construction projects that will be funded by the DSIC, consistent with the LTIIP. Additionally, if a utility determines that a *major* modification to its LTIIP is necessary once it has finalized its AAO plan, it can submit a separate petition for modification at the time it submits its annual filing of its AAO plan to the Commission. Such modification(s) will be subject to notice and an opportunity to be heard by interested parties. The proposed regulations set forth the procedures for major modifications to an approved LTIIP. However, as noted above, minor modifications can and will be addressed by Staff during its review of the AAO plan.

Summary of Proposed Regulations

Based upon these considerations, the proposed regulations will include the following sections:

§ 121.1. Purpose.

This section of the proposed regulations sets forth the general purposes for filing a LTIIP, which must be filed and approved before a utility can implement a DSIC. Additionally, this section highlights that a LTIIP is intended to ensure that utilities are planning and executing capital expenditures that will maintain and improve safety, adequacy and reliability of existing distribution infrastructure.

§ 121.2. Definitions.

This section of the proposed regulations sets forth the definitions of the key terms that will be used throughout the proposed regulations.

§ 121.3. Long Term Infrastructure Improvement Plan.

This section of the proposed regulations sets forth the specific elements that must be contained in a utility's proposed LTIP.

§ 121.4. Filing and Commission Review Procedures.

This section of the proposed regulations sets forth the filing procedures for LTIPs, the public comment period, and the manner in which the Commission will review a utility's plan.

§ 121.5. Modification to and expiration of a LTIP.

This section of the proposed regulations sets forth the procedures for modifying a Commission-approved LTIP and filing a new LTIP prior to the expiration of a filed plan. Major modifications or changes to the LTIP will require the filing of a separate petition that is subject to comment from interested parties, while minor modifications will be considered along with the AAO and disposed of via Staff action.

§ 121.6. Asset Optimization Plan Filings.

This section of the proposed regulations sets forth the procedures for filing the Annual Asset Optimization Plan and the elements of the AAO plan. This section also states that the AAO plan will be reviewed to determine whether the utility has adhered to its LTIP and whether any changes to the initial LTIP are necessary in order to maintain and improve the safety, adequacy and reliability of its existing distribution infrastructure. Absent any major modifications or changes, adverse comments or Commission action within 60 days, the filing will be deemed approved.

§ 121.7. Periodic Review of an LTIP.

This section of the proposed regulations sets forth the procedures for the periodic review of the LTIP, as required by Act 11. The section states that a periodic review will

be conducted every five years or more frequently if deemed necessary, and, upon such review, the utility may have to revise or update its LTIP.

§ 121.8. Enforcement of LTIP Implementation.

This section of the proposed regulations addresses the enforcement of Act 11 and the remedies the Commission may prescribe for a utility's noncompliance with its Commission-approved LTIP. The section also provides that variations in individual years and non-material changes from the Commission-approved LTIP will not be a basis for an enforcement action. Any enforcement actions filed will be referred to the Office of Administrative Law Judge (OALJ) for hearing and decision.

We invite interested parties to file comments on the proposed subsections of the regulation. Accordingly, under sections 501, 1350-1360 and 1501 of the Public Utility Code, 66 Pa. C.S. §§ 501, 1350-1360, and 1501 and the Commonwealth Documents Law, Act of July 31, 1968, P.L. 769, *as amended*, .45 P.S. §§1201, *et seq.*, and the regulations promulgated thereunder, at 1 Pa. Code §§ 7.1-7.4, we add the regulations at 52 Pa. Code §§ 121.1-121.7 as noted above and as set forth in Annex A; **THEREFORE,**

IT IS ORDERED:

1. That the proposed rulemaking at the above-captioned docket will consider the regulations set forth in Annex A.

2. That the Secretary shall submit this Order and Annex A to the Office of Attorney General for review as to form and legality and to the Governor's Budget Office for review of fiscal impact.

3. That the Secretary shall submit this Order and Annex A for review and comment to the Independent Regulatory Review Commission and Legislative Standing Committees.

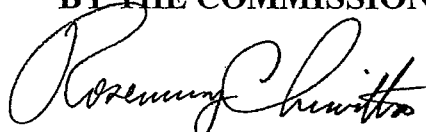
4. That the Secretary shall certify this Order and Annex A, and deposit them with the Legislative Reference Bureau to be published in the *Pennsylvania Bulletin*.

5. That an original copy of any comments referencing the docket number of the proposed regulations, be submitted within 45 days of publication in the *Pennsylvania Bulletin*, to the Pennsylvania Public Utility Commission, Attn: Secretary, P.O. Box 3265, Harrisburg, PA 17105-3265.

6. That the contact person for this rulemaking is Assistant Counsel David E. Screven, Law Bureau (717) 787-2126, dscreven@pa.gov. Alternate formats of this document are available for persons with disabilities and may be obtained by contacting Sherri DelBiondo, Regulatory Coordinator, (717) 772-4597.

7. That a copy of this Order and Annex A shall be served upon the Energy Association of Pennsylvania, all jurisdictional electric distribution companies, natural gas utilities, all water and wastewater utilities, the Bureau of Investigation and Enforcement, the Office of Consumer Advocate, and the Office of Small Business Advocate.

BY THE COMMISSION

A handwritten signature in black ink, appearing to read "Rosemary Chiavetta". The signature is written in a cursive, flowing style.

Rosemary Chiavetta
Secretary

(SEAL)

ORDER ADOPTED: March 14, 2013

ORDER ENTERED: March 14, 2013

Annex A

TITLE 52. PUBLIC UTILITIES
PART I. PUBLIC UTILITY COMMISSION
Subpart G. DISTRIBUTION SYSTEM IMPROVEMENT CHARGE
CHAPTER 121. LONG TERM INFRASTRUCTURE IMPROVEMENT PLAN

§ 121.1. Purpose. In order to be eligible to recover the reasonable and prudently incurred costs related to the repair, improvement and replacement of eligible property from a Distribution System Improvement Charge (DSIC), 66 Pa. C.S. § 1353, a utility shall submit a Long- Term Infrastructure Improvement Plan (LTIP) to be approved by the Commission. The LTIP must show the acceleration of the replacement of aging infrastructure by the utility and must be sufficient to ensure and maintain adequate, efficient, safe, reliable and reasonable service to customers.

§121.2. Definitions.

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

AAO Plan—Annual asset optimization plan—The plan and supporting documents identified in 66 Pa. C.S. § 1356 that specify all the eligible property repaired, improved or replaced by a utility pursuant to its Commission-approved LTIP.

DSIC—Distribution system improvement charge --A charge imposed by a utility to recover the reasonable and prudent costs incurred to repair, improve or replace eligible property that is part of the utility's distribution system pursuant to 66 Pa. C.S. § 1353.

Eligible property—Property as defined in 66 Pa. C.S. § 1351 (relating to definitions).

LTIP—Long-term infrastructure improvement plan—The plan and supporting documents identified in 66 Pa. C.S. § 1352(a) that must be submitted to and approved by the Commission in order for a utility to be eligible to recover costs from a DSIC mechanism and which includes information regarding the utility’s eligible property and its repair and replacement schedule.

Major modification—A change or deviation to a utility’s previously approved LTIP which:

- (1) Eliminates a category of eligible property from the plan.
- (2) Extends the schedule for repair, improvement or replacement of a category of eligible property by more than two years.
- (3) Increases the *total* estimated cost of the plan by more than 15%.
- (4) Otherwise reflects a substantial change to the current Commission-approved LTIP.

Utility—A natural gas distribution company, electric distribution company, water or wastewater utility or city natural gas distribution operation subject to the jurisdiction of the Commission.

§121.3. Long-term infrastructure improvement plan (LTIP).

(a) An LTIP shall be filed by a utility and shall include the following elements:

- (1) Identification of types and age of eligible property owned and operated by the utility for which it is seeking DSIC recovery.
- (2) An initial schedule for planned repair and replacement of eligible property.

- (3) A general description of location of eligible property.
- (4) A reasonable estimate of quantity of eligible property to be improved or repaired.
- (5) Projected annual expenditures and means to finance the expenditures.
- (6) A description of the manner in which infrastructure replacement will be accelerated and how repair, improvement or replacement will ensure and maintain adequate, efficient, safe, reliable and reasonable service to customers.
- (7) A workforce management and training program designed to ensure that the utility will have access to a qualified workforce to perform work in a cost-effective, safe and reliable manner.
- (8) A description of a utility's outreach and coordination activities with other utilities, PennDOT and local governments regarding their planned maintenance/construction projects and roadways that may be impacted by the plan.
- (9) For a natural gas distribution company, a description of the plan to address damage prevention, corrosion control, emergency response times, and identification of the NGDC's critical valves.

(b) The LTIP shall address only the specific property eligible for DSIC recovery.

§121.4. Filing and Commission review procedures.

- (a) An LTIP shall be filed with the Commission's Secretary's Bureau with copies served upon the Bureau of Investigation and Enforcement, the Office of Consumer Advocate, the Office of Small Business Advocate and the parties in the utility's most recent base rate case. Service shall be evidenced by a certificate of service filed with the LTIP.

- (b) An LTIIIP shall be considered a public document. If a utility believes that any portion of the information contained in the LTIIIP qualifies as confidential security information under 35 P.S. § 2141, or should be afforded proprietary and confidential treatment, the utility shall request proprietary treatment of such information pursuant to a protective order. See 52 Pa. Code § 5.423 (Propriety Information) and 52 Pa. Code §§ 102.1 – 102.4 (Confidential Security Information). Confidential security information appearing within the LTIIIP shall be marked confidential by the utility and excluded from the public version of the filing.
- (c) LTIIIP filings shall be subject to a 20-day comment period. The LTIIIP will be reviewed by Commission staff. If comments raise material factual issues, the LTIIIP shall be referred to the Office of Administrative Law Judge for hearings and a decision.
- (d) A utility has the burden of proof to demonstrate that its proposed plan and associated expenditures are reasonable, cost effective and are designed to ensure and maintain efficient, safe, adequate, reliable and reasonable service to consumers.
- (e) The Commission will review the LTIIIP and determine whether:
- (1) The long-term infrastructure improvement plan accelerates or maintains an accelerated rate of infrastructure replacement.
 - (2) The plan is sufficient to ensure and maintain adequate, efficient, safe, reliable and reasonable service.

- (f) If the plan does not meet the above criteria, the Commission will order the utility to file a new or revised LTIP.

§121.5. Modifications to and expiration of a LTIP.

- (a) If a utility seeks to modify a Commission-approved LTIP during its term in order to incorporate a major modification to any of the elements listed in subsection 121.3(a) above, the utility shall file a separate petition for modification. The utility shall clearly identify the change and shall explain the operational, financial or other justifications for the change in its petition. The petition shall be subject to notice and an opportunity to be heard by interested parties. Parties shall have 20 days to file comments to the petition.
- (b) Minor modifications to a LTIP that are changes that do not qualify as major changes as defined in section 121.2 will be addressed concurrent with Commission Staff's review of the utility's AAO plan.
- (c) A utility shall file a new LTIP with the Commission at least 120 days prior to the expiration of a currently-effective LTIP. The new LTIP shall contain the elements set forth in subsection 121.3(a) above.

§121.6. Annual asset optimization plan filings.

- (a) A utility with an approved DSIC shall file with the Commission, for informational purposes, an AAO plan. The AAO plan shall be filed on or before March 1st of each year following the implementation of the utility's DSIC mechanism. The utility shall file copies of the plan with the Commission's Bureau of Investigation and Enforcement, the Office of Consumer Advocate, the Office of Small Business Advocate and the interested parties that were a part of the proceeding in which the initial LTIP was approved.

(b) An AAO plan shall include the following:

(1) A description of the eligible property repaired, improved and replaced in the prior 12-month period pursuant to its LTIP.

(2) A description of the eligible property to be improved in the upcoming 12-month period.

(3) System reliability data for the prior 5 years.

(c) If a utility determines that a major modification to its LTIP is necessary once it has finalized its AAO plan, it shall submit a separate petition for modification as set forth in subsection 121.5(a) to the Commission.

(d) An AAO plan will be reviewed by the Commission to determine whether the utility has adhered to its approved LTIP. If the Commission determines that a major modification to the LTIP is necessary to maintain and improve the safety, adequacy and reliability of its existing distribution infrastructure, it will direct the utility to file a petition for modification as outlined in subsection 121.5(a) above.

(e) Absent any major modifications, adverse comments or Commission action within 60 days, the AAO plan shall be deemed approved. The Commission may extend its consideration period if necessary.

§121.7. Periodic review of a LTIP.

(a) The Commission will review a utility's LTIP at least once every 5 years, or more frequently if deemed necessary to address safety, reliability or other issues related to the approved LTIP.

(b) The Commission's review will determine the following:

- (1) Whether the utility has adhered to its LTIP.
- (2) Whether changes to the LTIP are necessary to maintain and improve the efficiency, safety, adequacy and reliability of its existing distribution infrastructure.

(c) Unless otherwise directed, the Commission's periodic review must commence at the midpoint of the term of the current LTIP. The Commission will, via a Secretarial Letter, establish a schedule for comments and reply comments to aid in its periodic review.

(d) If the Commission determines, based upon its review, that a utility's approved LTIP is no longer adequate to ensure and maintain efficient, adequate, safe, reliable and reasonable service, the Commission will direct the utility to revise, update or resubmit its plan as appropriate.

§121.8. Enforcement of LTIP implementation.

(a) A utility with a Commission-approved LTIP shall be obligated to comply with the infrastructure replacement schedule and elements of that plan. Compliance with the LTIP shall be evaluated on a multi-year basis over the life of the plan. Construction expenditure variations in individual years and minor changes or deviations from the Commission-approved LTIP may not be the basis for an enforcement complaint.

(b) A Commission-approved LTIP may be subject to enforcement complaints brought by statutory advocates and other interested persons. Enforcement complaints may

be referred to the Office of Administrative Law Judge for hearings and a decision, as appropriate.

- (c) The remedies for non-compliance with an approved LTIP may include civil penalties, revocation of the DSIC and other remedies as may be appropriate based on the record developed in the enforcement proceeding.



COMMONWEALTH OF PENNSYLVANIA
PUBLIC UTILITY COMMISSION
400 NORTH STREET
HARRISBURG, PA 17120

ROBERT F. POWELSON
CHAIRMAN

October 3, 2013

The Honorable Silvan B. Lutkewitte, III
Chairman
Independent Regulatory Review Commission
14th Floor, Harristown II
333 Market Street
Harrisburg, PA 17101

**Re: L-2012-2317274/57-294: Review of Long-Term Infrastructure Improvement Plan
52 Pa. Code, Chapter 121**

Dear Chairman Lutkewitte:

Enclosed please find 1 copy of the proposed rulemaking and the Regulatory Analysis Form prepared in compliance with Executive Order 1996-1, "Regulatory Review and Promulgation." Pursuant to Section 5(a) of the Regulatory Review Act of June 30, 1989 (P.L. 73, No. 19) (71 P.S. §§745.1-745.15), the Commission is submitting today a copy of the proposed rulemaking and Regulatory Analysis Form to the Chairman of the House Committee on Consumer Affairs and to the Chairman of the Senate Committee on Consumer Protection and Professional Licensure.

The purpose of this rulemaking is to set forth regulations for filing a Long-Term Infrastructure Improvement Plan to ensure that utilities are planning and executing expenditures that will maintain and improve safety, adequacy and reliability of existing distribution infrastructure. The contact person is Assistant Counsel David Screven, Law Bureau, 717 787-2126.

The proposal has been deposited for publication with the Legislative Reference Bureau.

Sincerely,

Robert F. Powelson

Enclosures

pc: The Honorable Robert M. Tomlinson
The Honorable Lisa Boscola
The Honorable Robert Godshall
The Honorable Peter J. Daley, II
Commissioner Witmer
Legislative Affairs Director Perry
Chief Counsel Pankiw
Assistant Counsel Screven
Regulatory Coordinator DelBiondo

TRANSMITTAL SHEET FOR REGULATIONS SUBJECT
TO THE REGULATORY REVIEW ACT

ID Number: L-2012-2317274/57-294

Subject: Proposed Rulemaking Re Review of Long-Term Infrastructure
Improvement Plan

Pennsylvania Public Utility Commission

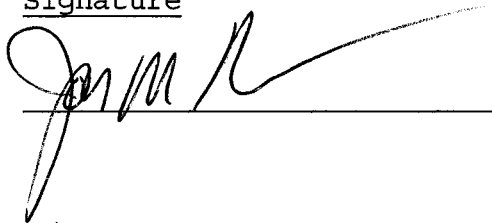
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TYPE OF REGULATION

- Proposed Regulation
- Final Regulation with Notice of Proposed Rulemaking
Omitted.
- Final Regulation
- 120-day Emergency Certification of the Attorney General
- 120-day Emergency Certification of the Governor

FILING OF REPORT

<u>Date</u>	<u>Signature</u>	<u>Designation</u>
10/3/13		<u>HOUSE COMMITTEE</u> (Godshall) Consumer Affairs
10/3/13	Mary Walmer	<u>SENATE COMMITTEE</u> (Tomlinson) Consumer Protection and Professional Licensure
10/3/13	K Cooper	Independent Regulatory Review Commission Attorney General
10/3/13	Samuel H. Huson	Legislative Reference Bureau