

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1294 Session of 2011

INTRODUCED BY GODSHALL, PRESTON, AUMENT, BEAR, BRENNAN, BUXTON, CARROLL, CLYMER, D. COSTA, P. COSTA, CUTLER, DALEY, DAVIDSON, DELOZIER, ELLIS, GRELL, GROVE, HARHART, W. KELLER, KORTZ, KOTIK, MANN, MCGEEHAN, MILLARD, NEUMAN, D. O'BRIEN, M. O'BRIEN, PAYNE, PAYTON, PEIFER, PERRY, PYLE, QUIGLEY, READSHAW, REICHLEY, SAINATO, SAYLOR, SCAVELLO, SONNEY, VULAKOVICH, WILLIAMS, KULA, MILLER, GINGRICH, STEPHENS, DEASY, GIBBONS, M. SMITH, GERGELY, CHRISTIANA, KILLION, BRIGGS, STABACK, WAGNER, OBERLANDER, SABATINA, HENNESSEY, LONGIETTI AND EVERETT, APRIL 6, 2011

SENATOR TOMLINSON, CONSUMER PROTECTION AND PROFESSIONAL LICENSURE, AS AMENDED, JANUARY 18, 2012

AN ACT

1 ~~Amending Title 66 (Public Utilities) of the Pennsylvania~~ ←
 2 ~~Consolidated Statutes, further providing for valuation of and~~
 3 ~~return on the property of a public utility; and providing for~~
 4 ~~alternative regulatory mechanisms.~~

5 AMENDING TITLE 66 (PUBLIC UTILITIES) OF THE PENNSYLVANIA ←
 6 CONSOLIDATED STATUTES, FURTHER PROVIDING FOR LAW BUREAU,
 7 OTHER BUREAUS, OFFICES AND POSITIONS, FOR THE BURDEN OF
 8 PROOF, FOR THE RECOVERY OF THE COSTS OF DISTRIBUTION SYSTEM
 9 IMPROVEMENT PROJECTS AND FOR CIVIL PENALTIES FOR VIOLATIONS.

10 The General Assembly of the Commonwealth of Pennsylvania
 11 hereby enacts as follows:

12 ~~Section 1. Section 1311(c) of Title 66 of the Pennsylvania~~ ←
 13 ~~Consolidated Statutes is amended and the section is amended by~~
 14 ~~adding a subsection to read:~~

15 ~~§ 1311. Valuation of and return on the property of a public~~
 16 ~~utility.~~

1 ~~***~~

2 ~~(c) Segregation of property. When any public utility~~
3 ~~furnishes more than one of the different types of utility~~
4 ~~service, the commission shall segregate the property used and~~
5 ~~useful in furnishing each type of such service, and shall not~~
6 ~~consider the property of such public utility as a unit in~~
7 ~~determining the value of the rate base of such public utility~~
8 ~~for the purpose of fixing rates. A utility that provides water~~
9 ~~and wastewater service shall be exempt from this subsection and~~
10 ~~may combine all components of its water and wastewater revenue~~
11 ~~requirement for the purposes of fixing rates on a consolidated~~
12 ~~basis.~~

13 ~~***~~

14 ~~(c) Definition. As used in this section, the term "utility~~
15 ~~that provides both water and wastewater service" shall include~~
16 ~~subsidiary companies that individually provide water or~~
17 ~~wastewater service so long as the companies are wholly owned by~~
18 ~~a common parent company.~~

19 ~~Section 2. Title 66 is amended by adding a section to read:~~
20 ~~§ 1329. Alternative regulatory mechanisms.~~

21 ~~(a) Declaration of policy. Many fixed utilities and city~~
22 ~~natural gas distribution operations in this Commonwealth have~~
23 ~~incurred and will continue to incur significant costs to~~
24 ~~maintain, enhance or modernize their physical facilities in~~
25 ~~order to continue to provide customers with safe and reliable~~
26 ~~service. Under traditional regulatory mechanisms developed under~~
27 ~~this title, these utilities and distribution operations~~
28 ~~experience delay in the recovery of the revenue requirements~~
29 ~~associated with those costs. The opportunity for more timely~~
30 ~~recovery of those costs, including the recovery of capital~~

1 ~~costs, including return of and on capital investments, and,~~
2 ~~where applicable, debt service and debt service coverage, should~~
3 ~~encourage investment to replace facilities for continued~~
4 ~~reliability, should enhance the efficiency of the construction~~
5 ~~cycle and should attract lower cost debt, which would reduce the~~
6 ~~overall cost of these investments and should create jobs in the~~
7 ~~Commonwealth. Accordingly, it is in the public interest to~~
8 ~~provide for alternative regulatory mechanisms as set forth under~~
9 ~~this section.~~

10 ~~(b) Authority.~~

11 ~~(1) Notwithstanding any other provision of this title~~
12 ~~that would prohibit implementation of this section, upon~~
13 ~~petition by a fixed utility or a city natural gas~~
14 ~~distribution operation, filed in its sole discretion, the~~
15 ~~commission shall have the authority to approve, modify or~~
16 ~~reject additional regulatory procedures and mechanisms~~
17 ~~proposed by a fixed utility or a city natural gas~~
18 ~~distribution operation to provide for timely recovery of~~
19 ~~reasonable and prudent costs incurred for the improvement of~~
20 ~~physical facilities to maintain safety or reliability.~~

21 ~~(2) (i) The additional procedures and mechanisms under~~
22 ~~paragraph (1) shall include, but are not limited to:~~

23 ~~(A) The use of a fully projected future test~~
24 ~~year in a general rate proceeding under section~~
25 ~~1308(d).~~

26 ~~(B) An automatic adjustment clause to recover~~
27 ~~capital costs and incremental expenditures accounted~~
28 ~~for as expense of certain projects, as approved by~~
29 ~~the commission under this section that are placed~~
30 ~~into service between base rate proceedings.~~

1 ~~(ii) For purposes of this paragraph, a fully~~
2 ~~projected future test year shall be the 12 month period~~
3 ~~beginning with the first month that the new rates could~~
4 ~~be placed in effect after application of the full~~
5 ~~suspension period permitted under section 1308(d).~~

6 ~~(c) Construction and interpretation. Except as otherwise~~
7 ~~expressly provided under this section, nothing under this~~
8 ~~section shall be construed as limiting the existing ratemaking~~
9 ~~authority of the commission, including, but not limited to, the~~
10 ~~commission's existing authority to permit recovery of operating~~
11 ~~expenses through an automatic adjustment clause, or as~~
12 ~~indicating that the existing authority of the commission over~~
13 ~~rate structure or design is limited.~~

14 ~~(d) Commission. The commission, by regulation or order,~~
15 ~~shall prescribe the specific procedures to be followed in~~
16 ~~establishing the alternative regulatory procedures and~~
17 ~~mechanisms authorized in this section. An alternative regulatory~~
18 ~~mechanism approved by the commission under this section shall:~~

19 ~~(1) Provide for reasonable allocation of costs to the~~
20 ~~customer class responsible for those costs.~~

21 ~~(2) Provide for adjustment of the mechanism, including a~~
22 ~~process to provide:~~

23 ~~(i) Credit to customer accounts for over collections~~
24 ~~and collections for ineligible projects.~~

25 ~~(ii) Charges to customer accounts for under~~
26 ~~collections.~~

27 ~~(3) Provide for a cap on the amount that may be~~
28 ~~collected from customers through an alternative regulatory~~
29 ~~mechanism authorized by subsection (b) (2) (i) (B).~~

30 ~~Section 3. This act shall take effect in 60 days.~~



1 SECTION 1. SECTIONS 308(B), 308.2(A)(11) AND 315(E) OF TITLE
2 66 OF THE PENNSYLVANIA CONSOLIDATED STATUTES ARE AMENDED TO
3 READ:

4 § 308. BUREAUS AND OFFICES.

5 * * *

6 (B) LAW BUREAU.--THE LAW BUREAU SHALL BE A MULTIFUNCTION
7 LEGAL STAFF, CONSISTING OF A PROSECUTORY FUNCTION, AN ADVISORY
8 FUNCTION, A REPRESENTATIONAL FUNCTION AND AN ENFORCEMENT
9 FUNCTION. THE DIRECTOR OF THE LAW BUREAU SHALL BE THE CHIEF
10 COUNSEL OF THE COMMISSION AND SHALL SERVE AT THE PLEASURE OF THE
11 COMMISSION. THE COMMISSION MAY ALSO, FROM TIME TO TIME, APPOINT
12 SUCH ASSISTANT COUNSEL TO THE COMMISSION AS MAY BE REQUIRED FOR
13 THE PROPER CONDUCT OF THE WORK OF THE LAW BUREAU. ASSISTANT
14 COUNSEL MAY BE REMOVED BY THE COMMISSION ONLY FOR GOOD CAUSE.
15 THE LAW BUREAU SHALL ADVISE THE COMMISSION ON ANY AND ALL
16 MATTERS. NO COUNSEL SHALL IN THE SAME CASE OR A FACTUALLY
17 RELATED CASE PERFORM DUTIES IN THE PROSECUTORY AND ADVISORY
18 FUNCTIONS, IF SUCH PERFORMANCE WOULD REPRESENT A CONFLICT OF
19 INTEREST. EXCEPT FOR LITIGATION REFERRED TO THE ATTORNEY GENERAL
20 OR OTHER APPROPRIATE OUTSIDE COUNSEL, THE LAW BUREAU SOLELY
21 SHALL BE RESPONSIBLE TO REPRESENT THE COMMISSION UPON APPEALS
22 AND OTHER HEARINGS IN THE COURTS OF COMMON PLEAS AND IN THE
23 COMMONWEALTH COURT, SUPREME COURT OR OTHER COURTS OF THIS
24 COMMONWEALTH OR IN ANY FEDERAL COURT OR AGENCY AND IN ACTIONS
25 INSTITUTED TO RECOVER PENALTIES AND TO ENFORCE REGULATIONS AND
26 ORDERS OF THE COMMISSION. IF NECESSARY TO PROTECT THE PUBLIC
27 INTEREST, THE LAW BUREAU, PURSUANT TO ITS PROSECUTORIAL
28 FUNCTION, MAY INITIATE AND PARTICIPATE IN PROCEEDINGS BEFORE THE
29 COMMISSION [UNLESS DIRECTED BY THE COMMISSION TO DO SO IN A
30 PROCEEDING INVOLVING TRANSPORTATION, SAFETY, EMINENT DOMAIN,

1 SITING, SERVICE ISSUES HAVING NO IMPACT ON RATES OR ABILITY TO
2 PAY OR ASSIST THE OFFICE OF TRIAL STAFF IN CARRYING OUT THE
3 DUTIES OF THE OFFICE OF TRIAL STAFF, NOR SHALL ANY MEMBER OF THE
4 LAW BUREAU RECEIVE ASSISTANCE FROM THE OFFICE OF TRIAL STAFF IN
5 THE PERFORMANCE OF HIS DUTIES. EXCEPT AS PROVIDED IN THIS
6 SECTION, THE LAW BUREAU MAY RECEIVE ASSISTANCE FROM ANY OTHER
7 BUREAU OR OFFICE OF THE COMMISSION AS DETERMINED TO BE
8 NECESSARY].

9 * * *

10 § 308.2. OTHER BUREAUS, OFFICES AND POSITIONS.

11 (A) ESTABLISHMENT OF OTHER BUREAUS, OFFICES AND POSITIONS.--
12 IN ADDITION TO THE SPECIFIC BUREAUS ESTABLISHED IN THIS PART,
13 THE COMMISSION MAY ESTABLISH OTHER BUREAUS, OFFICES AND
14 POSITIONS TO PERFORM THE FOLLOWING FUNCTIONS:

15 * * *

16 (11) TAKE APPROPRIATE ENFORCEMENT ACTIONS, INCLUDING
17 RATE PROCEEDINGS, SERVICE PROCEEDINGS AND [ALLOCATION]
18 APPLICATION PROCEEDINGS, NECESSARY TO INSURE COMPLIANCE WITH
19 THIS TITLE, COMMISSION REGULATIONS AND ORDERS.

20 * * *

21 § 315. BURDEN OF PROOF.

22 * * *

23 (E) USE OF FUTURE TEST YEAR.--IN DISCHARGING ITS BURDEN OF
24 PROOF THE UTILITY MAY UTILIZE A FUTURE TEST YEAR OR A FULLY
25 PROJECTED FUTURE TEST YEAR, WHICH SHALL BE THE 12-MONTH PERIOD
26 BEGINNING WITH THE FIRST MONTH THAT THE NEW RATES WILL BE PLACED
27 IN EFFECT AFTER APPLICATION OF THE FULL SUSPENSION PERIOD
28 PERMITTED UNDER SECTION 1308(D) (RELATING TO VOLUNTARY CHANGES
29 IN RATES). THE COMMISSION SHALL PROMPTLY ADOPT RULES AND
30 REGULATIONS REGARDING THE INFORMATION AND DATA TO BE SUBMITTED

1 WHEN AND IF A FUTURE TEST PERIOD OR A FULLY PROJECTED FUTURE
2 TEST YEAR IS TO BE UTILIZED. WHENEVER A UTILITY UTILIZES A
3 FUTURE TEST YEAR OR A FULLY PROJECTED FUTURE TEST YEAR IN ANY
4 RATE PROCEEDING AND SUCH FUTURE TEST YEAR OR A FULLY PROJECTED
5 TEST YEAR FORMS A SUBSTANTIVE BASIS FOR THE FINAL RATE
6 DETERMINATION OF THE COMMISSION, THE UTILITY SHALL PROVIDE, AS
7 SPECIFIED BY THE COMMISSION IN ITS FINAL ORDER, APPROPRIATE DATA
8 EVIDENCING THE ACCURACY OF THE ESTIMATES CONTAINED IN THE FUTURE
9 TEST YEAR OR A FULLY PROJECTED FUTURE TEST YEAR, AND THE
10 COMMISSION MAY AFTER REASONABLE NOTICE AND HEARING, IN ITS
11 DISCRETION, ADJUST THE UTILITY'S RATES ON THE BASIS OF SUCH
12 DATA.

13 SECTION 2. THE HEADING OF CHAPTER 13 OF TITLE 66 IS AMENDED
14 AND THE CHAPTER IS AMENDED BY ADDING A SUBCHAPTER HEADING TO
15 READ:

16 CHAPTER 13
17 RATES AND [RATE MAKING] DISTRIBUTION SYSTEMS
18 SUBCHAPTER A
19 RATES

20 SECTION 3. SECTION 1307(G) OF TITLE 66 IS REPEALED:

21 § 1307. SLIDING SCALE OF RATES; ADJUSTMENTS.

22 * * *

23 [(G) RECOVERY OF COSTS RELATED TO DISTRIBUTION SYSTEM
24 IMPROVEMENT PROJECTS DESIGNED TO ENHANCE WATER QUALITY, FIRE
25 PROTECTION RELIABILITY AND LONG-TERM SYSTEM VIABILITY.--WATER
26 UTILITIES MAY FILE TARIFFS ESTABLISHING A SLIDING SCALE OF RATES
27 OR OTHER METHOD FOR THE AUTOMATIC ADJUSTMENT OF THE RATES OF THE
28 WATER UTILITY AS SHALL PROVIDE FOR RECOVERY OF THE FIXED COSTS
29 (DEPRECIATION AND PRETAX RETURN) OF CERTAIN DISTRIBUTION SYSTEM
30 IMPROVEMENT PROJECTS, AS APPROVED BY THE COMMISSION, THAT ARE

1 COMPLETED AND PLACED IN SERVICE BETWEEN BASE RATE PROCEEDINGS.
2 THE COMMISSION, BY REGULATION OR ORDER, SHALL PRESCRIBE THE
3 SPECIFIC PROCEDURES TO BE FOLLOWED IN ESTABLISHING THE SLIDING
4 SCALE OR OTHER AUTOMATIC ADJUSTMENT METHOD.]

5 * * *

6 SECTION 4. SECTION 1311(C) OF TITLE 66 IS AMENDED AND THE
7 SECTION IS AMENDED BY ADDING A SUBSECTION TO READ:

8 § 1311. VALUATION OF AND RETURN ON THE PROPERTY OF A PUBLIC
9 UTILITY.

10 * * *

11 (C) SEGREGATION OF PROPERTY.--WHEN ANY PUBLIC UTILITY
12 FURNISHES MORE THAN ONE OF THE DIFFERENT TYPES OF UTILITY
13 SERVICE, THE COMMISSION SHALL SEGREGATE THE PROPERTY USED AND
14 USEFUL IN FURNISHING EACH TYPE OF SUCH SERVICE, AND SHALL NOT
15 CONSIDER THE PROPERTY OF SUCH PUBLIC UTILITY AS A UNIT IN
16 DETERMINING THE VALUE OF THE RATE BASE OF SUCH PUBLIC UTILITY
17 FOR THE PURPOSE OF FIXING BASE RATES. A UTILITY THAT PROVIDES
18 WATER AND WASTEWATER SERVICE SHALL BE EXEMPT FROM THIS
19 SUBSECTION UPON PETITION OF A UTILITY TO COMBINE WATER AND
20 WASTEWATER REVENUE REQUIREMENTS. THE COMMISSION WHEN SETTING
21 BASE RATES, AFTER NOTICE AND AN OPPORTUNITY TO BE HEARD, MAY
22 ALLOCATE A PORTION OF THE WASTEWATER REVENUE REQUIREMENT TO THE
23 COMBINED WATER AND WASTEWATER CUSTOMER BASE IF IN THE PUBLIC
24 INTEREST.

25 * * *

26 (E) DEFINITION.--AS USED IN THIS SECTION, THE TERM "UTILITY
27 THAT PROVIDES BOTH WATER AND WASTEWATER SERVICE" SHALL INCLUDE A
28 SUBSIDIARY COMPANY THAT INDIVIDUALLY PROVIDES WATER OR
29 WASTEWATER SERVICE IF THE COMPANY IS WHOLLY OWNED BY A COMMON
30 PARENT COMPANY.

1 SECTION 5. SECTION 1327(B) INTRODUCTORY PARAGRAPH OF TITLE
2 66 IS AMENDED TO READ:

3 § 1327. ACQUISITION OF WATER AND SEWER UTILITIES.

4 * * *

5 (B) PROCEDURE.--THE COMMISSION, UPON APPLICATION BY A PUBLIC
6 UTILITY, PERSON OR CORPORATION WHICH HAS AGREED TO ACQUIRE
7 PROPERTY FROM ANOTHER PUBLIC UTILITY, MUNICIPAL CORPORATION OR
8 PERSON, MAY APPROVE AN INCLUSION IN RATE BASE IN ACCORDANCE WITH
9 SUBSECTION (A) PRIOR TO THE ACQUISITION AND PRIOR TO A
10 PROCEEDING UNDER THIS [CHAPTER] SUBCHAPTER TO DETERMINE JUST AND
11 REASONABLE RATES IF:

12 * * *

13 SECTION 6. CHAPTER 13 OF TITLE 66 IS AMENDED BY ADDING A
14 SUBCHAPTER TO READ:

15 SUBCHAPTER B

16 DISTRIBUTION SYSTEMS

17 SEC.

18 1350. SCOPE OF SUBCHAPTER.

19 1351. DEFINITIONS.

20 1352. LONG-TERM INFRASTRUCTURE IMPROVEMENT PLAN.

21 1353. DISTRIBUTION SYSTEM IMPROVEMENT CHARGE.

22 1354. CUSTOMER NOTICE.

23 1355. REVIEW.

24 1356. ASSET OPTIMIZATION PLANS.

25 1357. COMPUTATION OF CHARGE.

26 1358. CUSTOMER PROTECTIONS.

27 1359. PROJECTS.

28 1360. APPLICABILITY.

29 § 1350. SCOPE OF SUBCHAPTER.

30 THIS SUBCHAPTER SHALL PROVIDE AN ADDITIONAL MECHANISM FOR A

1 DISTRIBUTION SYSTEM TO RECOVER COSTS RELATED TO THE REPAIR,
2 IMPROVEMENT AND REPLACEMENT OF ELIGIBLE PROPERTY.

3 § 1351. DEFINITIONS.

4 THE FOLLOWING WORDS AND PHRASES WHEN USED IN THIS SUBCHAPTER
5 SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS SECTION UNLESS THE
6 CONTEXT CLEARLY INDICATES OTHERWISE:

7 "CAPITALIZED COST." COSTS PERMITTED TO BE CAPITALIZED
8 PURSUANT TO THE UNIFORM SYSTEM OF ACCOUNTS AND GENERALLY
9 ACCEPTED ACCOUNTING PRINCIPLES.

10 "DISTRIBUTION SYSTEM." A SYSTEM OWNED OR OPERATED BY A
11 UTILITY. THE TERM INCLUDES A NATURAL GAS DISTRIBUTION COMPANY, A
12 CITY NATURAL GAS DISTRIBUTION OPERATION, AN ELECTRIC
13 DISTRIBUTION COMPANY, A WATER UTILITY AND A COLLECTION SYSTEM
14 FOR A WASTEWATER UTILITY.

15 "DISTRIBUTION SYSTEM IMPROVEMENT CHARGE." A CHARGE IMPOSED
16 BY A UTILITY TO RECOVER THE REASONABLE AND PRUDENT COSTS
17 INCURRED TO REPAIR, IMPROVE OR REPLACE ELIGIBLE PROPERTY THAT IS
18 PART OF THE UTILITY'S DISTRIBUTION SYSTEM.

19 "ELIGIBLE PROPERTY." PROPERTY THAT IS PART OF A DISTRIBUTION
20 SYSTEM AND ELIGIBLE FOR REPAIR, IMPROVEMENT AND REPLACEMENT OF
21 EXISTING INFRASTRUCTURE UNDER THIS SUBCHAPTER. INCLUDED PROPERTY
22 SHALL BE AS FOLLOWS:

23 (1) FOR ELECTRIC DISTRIBUTION COMPANIES, ELIGIBLE
24 PROPERTY SHALL INCLUDE:

25 (I) POLES AND TOWERS.

26 (II) OVERHEAD AND UNDERGROUND CONDUCTORS.

27 (III) TRANSFORMERS AND SUBSTATION EQUIPMENT.

28 (IV) ANY FIXTURE OR DEVICE RELATED TO ELIGIBLE
29 PROPERTY UNDER SUBPARAGRAPHS (I), (II) AND (III),
30 INCLUDING INSULATORS, CIRCUIT BREAKERS, FUSES, RECLOSERS,

1 GROUNDING WIRES, CROSSARMS AND BRACKETS, RELAYS,
2 CAPACITORS, CONVERTERS AND CONDENSERS.

3 (V) UNREIMBURSED FUNDS RELATED TO HIGHWAY RELOCATION
4 PROJECTS WHERE AN ELECTRIC DISTRIBUTION COMPANY MUST
5 RELOCATE ITS FACILITIES.

6 (VI) OTHER RELATED CAPITALIZED COSTS.

7 (2) FOR NATURAL GAS DISTRIBUTION COMPANIES AND CITY
8 NATURAL GAS DISTRIBUTION OPERATIONS, ELIGIBLE PROPERTY SHALL
9 INCLUDE:

10 (I) PIPING.

11 (II) COUPLINGS.

12 (III) GAS SERVICES LINES AND INSULATED AND
13 NONINSULATED FITTINGS.

14 (IV) VALVES.

15 (V) EXCESS FLOW VALVES.

16 (VI) RISERS.

17 (VII) METER BARS.

18 (VIII) METERS.

19 (IX) UNREIMBURSED FUNDS RELATED TO HIGHWAY
20 RELOCATION PROJECTS WHERE A NATURAL GAS DISTRIBUTION
21 COMPANY OR CITY NATURAL GAS DISTRIBUTION OPERATION MUST
22 RELOCATE ITS FACILITIES.

23 (X) OTHER RELATED CAPITALIZED COSTS.

24 (3) FOR WATER UTILITIES, ELIGIBLE PROPERTY SHALL
25 INCLUDE:

26 (I) UTILITY SERVICE LINES, METERS AND HYDRANTS
27 INSTALLED AS IN-KIND REPLACEMENTS FOR CUSTOMERS.

28 (II) MAINS AND VALVES INSTALLED AS REPLACEMENTS FOR
29 EXISTING FACILITIES THAT HAVE WORN OUT, ARE IN
30 DETERIORATED CONDITION OR ARE REQUIRED TO BE UPGRADED TO

1 MEET UNDER 52 PA. CODE CH. 65 (RELATING TO WATER
2 SERVICE).

3 (III) MAIN EXTENSIONS INSTALLED TO ELIMINATE DEAD
4 ENDS AND TO IMPLEMENT SOLUTIONS TO REGIONAL WATER SUPPLY
5 PROBLEMS THAT PRESENT A SIGNIFICANT HEALTH AND SAFETY
6 CONCERN FOR CUSTOMERS CURRENTLY RECEIVING SERVICE FROM
7 THE WATER UTILITY.

8 (IV) MAIN CLEANING AND RELINING PROJECTS.

9 (V) UNREIMBURSED FUNDS RELATED TO HIGHWAY RELOCATION
10 PROJECTS WHERE A WATER UTILITY MUST RELOCATE ITS
11 FACILITIES.

12 (VI) OTHER RELATED CAPITALIZED COSTS.

13 (4) FOR WASTEWATER UTILITIES, ELIGIBLE PROPERTY SHALL
14 INCLUDE:

15 (I) COLLECTION SEWERS, COLLECTING MAINS AND SERVICE
16 LATERALS, INCLUDING SEWER TAPS, CURBSTOPS AND LATERAL
17 CLEANOUTS INSTALLED AS IN-KIND REPLACEMENTS FOR
18 CUSTOMERS.

19 (II) COLLECTION MAINS AND VALVES FOR GRAVITY AND
20 PRESSURE SYSTEMS AND RELATED FACILITIES SUCH AS MANHOLES,
21 AIR AND VACUUM RELEASE CHAMBERS, CLEANOUTS, MAIN LINE
22 FLOW METERS, VALVE VAULTS AND LIFT STATIONS INSTALLED AS
23 REPLACEMENTS OR UPGRADES FOR EXISTING FACILITIES THAT
24 HAVE WORN OUT, ARE IN DETERIORATED CONDITION OR ARE
25 REQUIRED TO BE UPGRADED BY LAW, REGULATION OR ORDER.

26 (III) COLLECTION MAIN EXTENSIONS INSTALLED TO
27 IMPLEMENT SOLUTIONS TO WASTEWATER PROBLEMS THAT PRESENT A
28 SIGNIFICANT HEALTH AND SAFETY CONCERN FOR CUSTOMERS
29 CURRENTLY RECEIVING SERVICE FROM THE WASTEWATER UTILITY.

30 (IV) COLLECTION MAIN REHABILITATION INCLUDING INFLOW

1 AND INFILTRATION PROJECTS.

2 (V) UNREIMBURSED FUNDS RELATED TO HIGHWAY RELOCATION
3 PROJECTS WHERE A WASTEWATER UTILITY MUST RELOCATE ITS
4 FACILITIES.

5 (VI) OTHER RELATED CAPITALIZED COSTS.

6 "UTILITY." A NATURAL GAS DISTRIBUTION COMPANY, ELECTRIC
7 DISTRIBUTION COMPANY, WATER OR WASTEWATER UTILITY OR CITY
8 NATURAL GAS DISTRIBUTION OPERATION.

9 § 1352. LONG-TERM INFRASTRUCTURE IMPROVEMENT PLAN.

10 (A) SUBMISSION.--IN ORDER TO BE ELIGIBLE TO RECOVER COSTS
11 UNDER SECTION 1353 (RELATING TO DISTRIBUTION SYSTEM IMPROVEMENT
12 CHARGE), A UTILITY MUST SUBMIT A LONG-TERM INFRASTRUCTURE
13 IMPROVEMENT PLAN. THE PLAN SHALL INCLUDE THE FOLLOWING:

14 (1) IDENTIFICATION OF THE TYPES AND AGE OF ELIGIBLE
15 PROPERTY OWNED OR OPERATED BY THE UTILITY FOR WHICH THE
16 UTILITY WOULD SEEK RECOVERY UNDER THIS SUBCHAPTER.

17 (2) A SCHEDULE FOR THE REPAIR AND REPLACEMENT OF
18 ELIGIBLE PROPERTY.

19 (3) A GENERAL DESCRIPTION OF THE LOCATION OF THE
20 ELIGIBLE PROPERTY.

21 (4) A REASONABLE ESTIMATE OF THE QUANTITY OF ELIGIBLE
22 PROPERTY TO BE IMPROVED.

23 (5) PROJECTED ANNUAL EXPENDITURES TO IMPLEMENT THE PLAN
24 AND MEASURES TAKEN TO ENSURE THAT THE PLAN IS COST EFFECTIVE.

25 (6) THE MANNER IN WHICH THE REPLACEMENT OF AGING
26 INFRASTRUCTURE WILL BE ACCELERATED AND HOW THE REPAIR AND
27 REPLACEMENT WILL ENSURE AND MAINTAIN ADEQUATE, EFFICIENT,
28 SAFE, RELIABLE AND REASONABLE SERVICE.

29 (7) IF THE PLAN IS NOT ADEQUATE AND SUFFICIENT TO ENSURE
30 AND MAINTAIN ADEQUATE, EFFICIENT, SAFE, RELIABLE AND

1 REASONABLE SERVICE, THE COMMISSION SHALL ORDER A NEW OR
2 REVISED PLAN.

3 (B) PERIODIC REVIEW.--

4 (1) THE COMMISSION SHALL PROMULGATE REGULATIONS FOR THE
5 PERIODIC REVIEW AT LEAST ONCE EVERY FIVE YEARS OF LONG-TERM
6 INFRASTRUCTURE PLANS. THE REGULATIONS MAY AUTHORIZE A UTILITY
7 TO REVISE, UPDATE OR RESUBMIT A PLAN AS APPROPRIATE.

8 (2) THE REGULATIONS SHALL ENSURE THAT A DISTRIBUTION
9 SYSTEM IMPROVEMENT CHARGE SHALL TERMINATE IF THE COMMISSION
10 DETERMINES THAT THE UTILITY IS NOT IN COMPLIANCE WITH THE
11 APPROVED PLAN.

12 § 1353. DISTRIBUTION SYSTEM IMPROVEMENT CHARGE.

13 (A) AUTHORITY.--EXCEPT AS PROVIDED UNDER THIS SUBCHAPTER,
14 AFTER JANUARY 1, 2013, A UTILITY MAY PETITION THE COMMISSION
15 FOR, OR THE COMMISSION, AFTER NOTICE AND HEARING, MAY APPROVE
16 THE ESTABLISHMENT OF A DISTRIBUTION SYSTEM IMPROVEMENT CHARGE TO
17 PROVIDE FOR THE TIMELY RECOVERY OF THE REASONABLE AND PRUDENT
18 COSTS INCURRED TO REPAIR, IMPROVE OR REPLACE ELIGIBLE PROPERTY
19 IN ORDER TO ENSURE AND MAINTAIN ADEQUATE, EFFICIENT, SAFE,
20 RELIABLE AND REASONABLE SERVICE.

21 (B) PETITION.--A PETITION FOR COMMISSION APPROVAL OF A
22 DISTRIBUTION SYSTEM IMPROVEMENT CHARGE SHALL INCLUDE THE
23 FOLLOWING:

24 (1) AN INITIAL TARIFF THAT COMPLIES WITH A MODEL TARIFF
25 ADOPTED BY THE COMMISSION. THE PROPOSED TARIFF SHALL INCLUDE
26 THE FOLLOWING:

27 (I) A DESCRIPTION OF THE ELIGIBLE PROPERTY.

28 (II) THE EFFECTIVE DATE OF THE DISTRIBUTION SYSTEM
29 IMPROVEMENT CHARGE.

30 (III) COMPUTATION OF THE DISTRIBUTION SYSTEM

1 IMPROVEMENT CHARGE.

2 (IV) THE METHOD BY WHICH THE UTILITY WILL PROVIDE
3 QUARTERLY UPDATES OF THE DISTRIBUTION IMPROVEMENT CHARGE.

4 (V) A DESCRIPTION OF CONSUMER PROTECTIONS.

5 (2) TESTIMONY, AFFIDAVITS, EXHIBITS OR OTHER EVIDENCE
6 THAT DEMONSTRATES THAT A DISTRIBUTION IMPROVEMENT SYSTEM
7 CHARGE IS IN THE PUBLIC INTEREST AND WILL FACILITATE UTILITY
8 COMPLIANCE WITH THE FOLLOWING:

9 (I) THE PROVISION AND MAINTENANCE OF ADEQUATE,
10 EFFICIENT, SAFE, RELIABLE AND REASONABLE SERVICE
11 CONSISTENT WITH SECTION 1501 (RELATING TO CHARACTER OF
12 SERVICE AND FACILITIES).

13 (II) COMMISSION REGULATIONS AND ORDERS RELATING TO
14 THE PROVISION AND MAINTENANCE OF ADEQUATE, EFFICIENT,
15 SAFE, RELIABLE AND REASONABLE SERVICE.

16 (III) ANY OTHER REQUIREMENT UNDER FEDERAL OR STATE
17 LAW RELATING TO THE PROVISION AND MAINTENANCE OF
18 ADEQUATE, EFFICIENT, SAFE, RELIABLE AND REASONABLE
19 SERVICE.

20 (3) A LONG-TERM INFRASTRUCTURE IMPROVEMENT PLAN UNDER
21 SECTION 1352 (RELATING TO LONG-TERM INFRASTRUCTURE
22 IMPROVEMENT PLAN).

23 (4) CERTIFICATION THAT A BASE RATE CASE HAS BEEN FILED
24 WITHIN THE LAST FIVE YEARS UNDER SECTION 1308(D) (RELATING TO
25 VOLUNTARY CHANGES IN RATES).

26 (5) IF A BASE RATE CASE HAS NOT BEEN FILED WITHIN FIVE
27 YEARS PRIOR TO THE EFFECTIVE DATE OF THIS SECTION, THE
28 UTILITY MUST FILE A BASE RATE CASE IN ORDER TO BE ELIGIBLE
29 FOR A DISTRIBUTION SYSTEM IMPROVEMENT CHARGE.

30 (6) ANY OTHER INFORMATION REQUIRED BY THE COMMISSION.

1 § 1354. CUSTOMER NOTICE.

2 UTILITIES SHALL PROVIDE NOTICE TO CUSTOMERS IN BILL INSERTS
3 OF THE FOLLOWING:

4 (1) SUBMISSION OF THE PROPOSED DISTRIBUTION SYSTEM
5 IMPROVEMENT CHARGE AND INITIAL TARIFF.

6 (2) NOTICE OF THE COMMISSION'S DISPOSITION OF THE
7 SUBMISSION UNDER PARAGRAPH (1).

8 (3) ANY CHANGES THAT OCCUR AS A RESULT OF QUARTERLY
9 ADJUSTMENTS.

10 (4) ANY OTHER INFORMATION REQUIRED BY THE COMMISSION.

11 § 1355. REVIEW.

12 FOLLOWING THE FILING OF A PETITION IN COMPLIANCE WITH SECTION
13 1353 (RELATING TO DISTRIBUTION SYSTEM IMPROVEMENT CHARGE), THE
14 COMMISSION SHALL, AFTER NOTICE AND OPPORTUNITY TO BE HEARD,
15 APPROVE, MODIFY OR REJECT THE DISTRIBUTION SYSTEM IMPROVEMENT
16 CHARGE AND INITIAL TARIFF. THE COMMISSION SHALL HOLD EVIDENTIARY
17 AND PUBLIC INPUT HEARINGS AS NECESSARY TO REVIEW THE PETITION.

18 § 1356. ASSET OPTIMIZATION PLANS.

19 A UTILITY WITH AN APPROVED DISTRIBUTION SYSTEM CHARGE AND
20 LONG-TERM INFRASTRUCTURE PLAN SHALL FILE ANNUAL ASSET
21 OPTIMIZATION PLANS. THE PLAN SHALL INCLUDE THE FOLLOWING:

22 (1) A DESCRIPTION THAT SPECIFIES ALL ELIGIBLE PROPERTY
23 REPAIRED, IMPROVED AND REPLACED IN THE IMMEDIATELY PRECEDING
24 12-MONTH PERIOD PURSUANT TO THE UTILITY'S LONG-TERM
25 INFRASTRUCTURE IMPROVEMENT PLAN AND PRIOR YEAR'S ASSET
26 OPTIMIZATION PLAN.

27 (2) A DETAILED DESCRIPTION OF ALL THE FACILITIES TO BE
28 IMPROVED IN THE UPCOMING 12-MONTH PERIOD.

29 § 1357. COMPUTATION OF CHARGE.

30 (A) RECOVERY.--THE FOLLOWING SHALL APPLY:

1 (1) THE INITIAL DISTRIBUTION SYSTEM IMPROVEMENT CHARGE
2 SHALL BE CALCULATED TO RECOVER THE FIXED COST OF ELIGIBLE
3 PROPERTY THAT HAS:

4 (I) NOT PREVIOUSLY BEEN REFLECTED IN THE UTILITY'S
5 RATE BASE.

6 (II) BEEN PLACED IN SERVICE DURING THE THREE-MONTH
7 PERIOD ENDING ONE MONTH PRIOR TO THE EFFECTIVE DATE OF
8 THE DISTRIBUTION IMPROVEMENT SYSTEM CHARGE.

9 (2) AFTER CALCULATION OF THE INITIAL CHARGE UNDER
10 PARAGRAPH (1), THE DISTRIBUTION SYSTEM IMPROVEMENT CHARGE
11 MUST BE UPDATED ON A QUARTERLY BASIS TO REFLECT ELIGIBLE
12 PROPERTY PLACED IN SERVICE DURING THE THREE-MONTH PERIOD
13 ENDING ONE MONTH PRIOR TO THE EFFECTIVE DATE OF EACH
14 DISTRIBUTION SYSTEM IMPROVEMENT CHARGE UPDATE.

15 (3) THE FIXED COST OF ELIGIBLE PROPERTY SHALL CONSIST OF
16 DEPRECIATION AND PRETAX RETURN, EXCEPT AS PROVIDED FOR IN
17 SUBSECTION (C) FOR CITY NATURAL GAS DISTRIBUTION OPERATION.

18 (B) DEPRECIATION CALCULATION.--DEPRECIATION SHALL BE
19 CALCULATED BY APPLYING THE ORIGINAL COST OF THE ELIGIBLE
20 PROPERTY TO THE ANNUAL ACCRUAL RATES EMPLOYED IN THE UTILITY'S
21 LAST BASE RATE CASE FOR THE PLANT ACCOUNTS IN WHICH EACH
22 RETIREMENT UNIT OF DISTRIBUTION SYSTEM IMPROVEMENT CHARGE
23 ELIGIBLE PROPERTY IS RECORDED. THE FOLLOWING SHALL APPLY:

24 (1) THE PRETAX RETURN SHALL BE CALCULATED USING THE
25 FEDERAL AND STATE INCOME TAX RATES, THE UTILITY'S ACTUAL
26 CAPITAL STRUCTURE AND ACTUAL COST RATES FOR LONG-TERM DEBT
27 AND PREFERRED STOCK AS OF THE LAST DAY OF THE THREE-MONTH
28 PERIOD ENDING ONE MONTH PRIOR TO THE EFFECTIVE DATE OF THE
29 DISTRIBUTION SYSTEM OR COLLECTION SYSTEM IMPROVEMENT CHARGE
30 AND SUBSEQUENT UPDATES.

1 (2) THE COST OF EQUITY SHALL BE THE EQUITY RETURN RATE
2 APPROVED IN THE UTILITY'S LAST FULLY LITIGATED BASE RATE
3 PROCEEDING FOR WHICH A FINAL ORDER WAS ENTERED NOT MORE THAN
4 TWO YEARS PRIOR TO THE EFFECTIVE DATE OF THE DISTRIBUTION
5 SYSTEM OR COLLECTION SYSTEM IMPROVEMENT CHARGE.

6 (3) IF MORE THAN TWO YEARS HAVE ELAPSED BETWEEN THE
7 ENTRY OF A FINAL ORDER AND THE EFFECTIVE DATE OF THE
8 DISTRIBUTION SYSTEM IMPROVEMENT CHARGE, THE EQUITY RETURN
9 RATE USED IN THE CALCULATION SHALL BE THE EQUITY RETURN RATE
10 CALCULATED BY THE COMMISSION IN THE LATEST QUARTERLY REPORT
11 ON THE EARNINGS OF JURISDICTIONAL UTILITIES RELEASED BY THE
12 COMMISSION.

13 (C) RECOVERY OF COSTS.--UTILITIES MAY FILE TARIFFS
14 ESTABLISHING A SLIDING SCALE OF RATES OR OTHER METHOD FOR THE
15 AUTOMATIC ADJUSTMENT OF THE RATES OF THE UTILITY TO PROVIDE FOR
16 RECOVERY OF THE DEPRECIATION AND PRETAX RETURN FIXED COSTS OF
17 ELIGIBLE PROPERTY, AS APPROVED BY THE COMMISSION, THAT ARE
18 COMPLETED AND PLACED IN SERVICE BETWEEN BASE RATE PROCEEDINGS.
19 FOR CITY NATURAL GAS DISTRIBUTION OPERATIONS, RECOVERABLE COSTS
20 SHALL BE AMOUNTS REASONABLY EXPENDED OR INCURRED TO PURCHASE AND
21 INSTALL RECOVERY ELIGIBLE PROPERTY AND ASSOCIATED FINANCING
22 COSTS, IF ANY, INCLUDING DEBT SERVICE, DEBT SERVICE COVERAGE AND
23 ISSUANCE COSTS.

24 (D) CALCULATION.--

25 (1) THE DISTRIBUTION SYSTEM IMPROVEMENT CHARGE SHALL BE
26 EXPRESSED AS A PERCENTAGE CARRIED TO TWO DECIMAL PLACES AND
27 SHALL BE APPLIED IN A MANNER CONSISTENT WITH SECTION 1358
28 (RELATING TO CUSTOMER PROTECTIONS) TO EACH CUSTOMER UNDER THE
29 UTILITY'S APPLICABLE RATES AND CHARGES. THE CHARGE SHALL NOT
30 BE APPLIED TO AMOUNTS BILLED FOR PUBLIC FIRE PROTECTION

1 SERVICE BY WATER UTILITIES AND THE STATE TAX ADJUSTMENT
2 SURCHARGE.

3 (2) THE DISTRIBUTION SYSTEM IMPROVEMENT CHARGE SHALL BE
4 CALCULATED BY DIVIDING ONE-FOURTH OF THE ANNUAL FIXED COSTS
5 ASSOCIATED WITH ALL ELIGIBLE PROPERTY UNDER THE DISTRIBUTION
6 SYSTEM IMPROVEMENT CHARGE BY THE PROJECTED REVENUE FOR THE
7 QUARTERLY PERIOD DURING WHICH THE DISTRIBUTION SYSTEM WILL BE
8 COLLECTED. THE PROJECTED REVENUES SHALL NOT INCLUDE REVENUES
9 FROM PUBLIC FIRE PROTECTION SERVICE EARNED BY WATER UTILITIES
10 AND THE STATE TAX ADJUSTMENT SURCHARGE.

11 (3) SUPPORTING DATA FOR EACH QUARTERLY UPDATE SHALL BE
12 FILED WITH THE COMMISSION AND SERVED UPON THE COMMISSION, THE
13 OFFICE OF CONSUMER ADVOCATE AND THE OFFICE OF SMALL BUSINESS
14 ADVOCATE AT LEAST TEN DAYS PRIOR TO THE EFFECTIVE DATE OF THE
15 UPDATE.

16 § 1358. CUSTOMER PROTECTIONS.

17 (A) LIMITATION.--AS FOLLOWS:

18 (1) EXCEPT AS PROVIDED UNDER PARAGRAPH (2), THE
19 DISTRIBUTION SYSTEM IMPROVEMENT CHARGE MAY NOT EXCEED 5% OF
20 THE AMOUNT BILLED TO CUSTOMERS UNDER THE APPLICABLE RATES OF
21 THE WASTEWATER UTILITY OR DISTRIBUTION RATES OF THE ELECTRIC
22 DISTRIBUTION COMPANY, NATURAL GAS DISTRIBUTION COMPANY OR
23 CITY NATURAL GAS DISTRIBUTION OPERATION. THE COMMISSION MAY
24 UPON PETITION GRANT A WAIVER OF THE 5% LIMIT UNDER THIS
25 PARAGRAPH FOR A UTILITY IN ORDER TO ENSURE AND MAINTAIN
26 ADEQUATE, EFFICIENT, SAFE, RELIABLE AND REASONABLE SERVICE.

27 (2) A DISTRIBUTION SYSTEM IMPROVEMENT CHARGE GRANTED TO
28 A WATER UTILITY UNDER FORMER SECTION 1307(G) (RELATING TO
29 SLIDING SCALE OF RATES; ADJUSTMENTS) OR THIS SUBCHAPTER MAY
30 NOT EXCEED 7.5% OF THE AMOUNT BILLED TO CUSTOMERS. ALL

1 PROCEEDINGS, ORDERS AND OTHER ACTIONS OF THE COMMISSION
2 RELATED TO A DISTRIBUTION SYSTEM IMPROVEMENT CHARGE GRANTED
3 TO A WATER UTILITY PRIOR TO THE EFFECTIVE DATE OF THIS
4 PARAGRAPH SHALL REMAIN IN EFFECT UNLESS SPECIFICALLY AMENDED
5 OR REVOKED BY THE COMMISSION.

6 (B) CHARGE RESET.--

7 (1) THE DISTRIBUTION SYSTEM SHALL BE RESET AT ZERO AS OF
8 THE EFFECTIVE DATE OF NEW BASE RATES THAT PROVIDE FOR
9 PROSPECTIVE RECOVERY OF THE ANNUAL COSTS PREVIOUSLY RECOVERED
10 UNDER THE DISTRIBUTION SYSTEM OR IMPROVEMENT CHARGE.

11 (2) AFTER THE RESET DATE UNDER PARAGRAPH (1), ONLY THE
12 FIXED COSTS OF NEW ELIGIBLE PROPERTY THAT HAVE NOT PREVIOUSLY
13 BEEN REFLECTED IN THE UTILITY'S RATE BASE SHALL BE REFLECTED
14 IN THE QUARTERLY UPDATES OF THE DISTRIBUTION SYSTEM
15 IMPROVEMENT CHARGE.

16 (3) THE DISTRIBUTION SYSTEM IMPROVEMENT CHARGE SHALL BE
17 RESET AT ZERO IF, IN ANY QUARTER, DATA FILED WITH THE
18 COMMISSION IN THE UTILITY'S MOST RECENT ANNUAL OR QUARTERLY
19 EARNINGS REPORT SHOW THAT THE UTILITY WILL EARN A RATE OF
20 RETURN THAT WOULD EXCEED THE ALLOWABLE RATE OF RETURN USED TO
21 CALCULATE ITS FIXED COSTS UNDER THE DISTRIBUTION SYSTEM
22 IMPROVEMENT CHARGE.

23 (C) CONSTRUCTION.--EXCEPT AS OTHERWISE EXPRESSLY PROVIDED
24 UNDER THIS SUBCHAPTER, NOTHING UNDER THIS SUBCHAPTER SHALL BE
25 CONSTRUED AS LIMITING THE EXISTING RATEMAKING AUTHORITY OF THE
26 COMMISSION, INCLUDING THE AUTHORITY TO PERMIT RECOVERY OF
27 OPERATING EXPENSES THROUGH AN AUTOMATIC ADJUSTMENT CLAUSE, OR AS
28 INDICATING THAT THE EXISTING AUTHORITY OF THE COMMISSION OVER
29 RATE STRUCTURE OR DESIGN IS LIMITED.

30 (D) COMMISSION.--THE COMMISSION, BY REGULATION OR ORDER,

1 SHALL PRESCRIBE THE SPECIFIC PROCEDURES TO BE FOLLOWED TO
2 APPROVE A DISTRIBUTION SYSTEM IMPROVEMENT CHARGE. A DISTRIBUTION
3 SYSTEM IMPROVEMENT CHARGE APPROVED BY THE COMMISSION SHALL
4 PROVIDE:

5 (1) THAT THE DISTRIBUTION SYSTEM IMPROVEMENT CHARGE
6 SHALL BE APPLIED EQUALLY TO ALL CUSTOMER CLASSES AS A
7 PERCENTAGE OF EACH CUSTOMER'S BILLED REVENUE.

8 (2) A PROCESS TO ADJUST THE CHARGE AND TO PROVIDE:

9 (I) CREDIT TO CUSTOMER ACCOUNTS FOR OVER COLLECTIONS
10 AND COLLECTIONS FOR INELIGIBLE PROJECTS.

11 (II) CHARGES TO CUSTOMER ACCOUNTS FOR UNDER
12 COLLECTIONS.

13 (3) A CAP ON THE AMOUNT THAT MAY BE COLLECTED FROM
14 CUSTOMERS UNDER THIS SUBCHAPTER.

15 (E) AUDIT AND RECONCILIATION.--THE FOLLOWING SHALL APPLY:

16 (1) THE DISTRIBUTION SYSTEM IMPROVEMENT CHARGE SHALL BE
17 SUBJECT TO THE FOLLOWING:

18 (I) AUDIT AT INTERVALS DETERMINED BY THE COMMISSION.

19 (II) ANNUAL RECONCILIATION BASED ON A RECONCILIATION
20 PERIOD CONSISTING OF THE 12 MONTHS ENDING DECEMBER 31 OF
21 EACH YEAR.

22 (2) THE REVENUE RECEIVED UNDER THE DISTRIBUTION SYSTEM
23 IMPROVEMENT CHARGE FOR THE RECONCILIATION PERIOD SHALL BE
24 COMPARED TO THE UTILITY'S ELIGIBLE COSTS FOR THAT PERIOD. THE
25 DIFFERENCE BETWEEN REVENUE AND COSTS SHALL BE RECOUPED OR
26 REFUNDED, AS APPROPRIATE, IN ACCORDANCE WITH SECTION 1307(E)
27 (RELATING TO SLIDING SCALE OF RATES; ADJUSTMENTS), OVER A
28 ONE-YEAR PERIOD COMMENCING APRIL 1 OF EACH YEAR.

29 (3) IF REVENUES FROM THE DISTRIBUTION SYSTEM IMPROVEMENT
30 CHARGE EXCEED ELIGIBLE COSTS, THE OVER COLLECTIONS SHALL BE

1 REFUNDED WITH INTEREST. INTEREST ON THE OVER COLLECTIONS
2 SHALL BE CALCULATED AT THE RESIDENTIAL MORTGAGE LENDING RATE
3 SPECIFIED BY THE SECRETARY OF BANKING IN ACCORDANCE WITH THE
4 ACT OF JANUARY 30, 1974 (P.L.13, NO.6), REFERRED TO AS THE
5 LOAN INTEREST AND PROTECTION LAW, AND SHALL BE REFUNDED IN
6 THE SAME MANNER AS AN OVER COLLECTION.

7 (F) COMPLAINT.--THE DISTRIBUTION SYSTEM IMPROVEMENT CHARGE
8 SHALL BE SUBJECT TO COMPLAINT UNDER SECTION 701 (RELATING TO
9 COMPLAINTS).

10 § 1359. PROJECTS.

11 (A) STANDARDS.--THE COMMISSION SHALL ESTABLISH STANDARDS TO
12 ENSURE THAT WORK ON UTILITY SYSTEMS TO REPAIR, IMPROVE OR
13 REPLACE ELIGIBLE PROPERTY IS PERFORMED BY QUALIFIED EMPLOYEES OF
14 EITHER THE UTILITY OR AN INDEPENDENT CONTRACTOR IN A MANNER THAT
15 PROTECTS SYSTEM RELIABILITY AND THE SAFETY OF THE PUBLIC.

16 (B) INSPECTION.--PROJECTS FOR WHICH WORK TO REPAIR, IMPROVE
17 OR REPLACE ELIGIBLE PROPERTY IS PERFORMED BY INDEPENDENT
18 CONTRACTORS SHALL BE SUBJECT TO RELIABILITY AND SAFETY STANDARDS
19 AND TO INSPECTION BY UTILITY EMPLOYEES.

20 (C) COST.--WORK ON PROJECTS TO REPAIR, IMPROVE OR REPLACE
21 ELIGIBLE PROPERTY THAT IS NOT PERFORMED BY QUALIFIED CONTRACTORS
22 OR INSPECTED BY THE UTILITY'S QUALIFIED PERSONNEL SHALL NOT BE
23 ELIGIBLE FOR RECOVERY OF A DISTRIBUTION SYSTEM IMPROVEMENT
24 CHARGE.

25 § 1360. APPLICABILITY.

26 (A) ACCEPTANCE.--THE COMMISSION MAY ACCEPT A LONG-TERM
27 INFRASTRUCTURE PLAN FILED BY A WATER UTILITY PRIOR TO THE
28 EFFECTIVE DATE OF THIS SUBSECTION IN ORDER TO COMPLY WITH
29 SECTION 1352 (RELATING TO LONG-TERM INFRASTRUCTURE IMPROVEMENT
30 PLAN).

1 (B) SUBMISSION.--THE COMMISSION MAY REQUIRE THE SUBMISSION
2 OF A NEW LONG-TERM INFRASTRUCTURE PLAN BY A WATER UTILITY.

3 SECTION 7. SECTION 3301(C) OF TITLE 66 IS AMENDED TO READ:
4 § 3301. CIVIL PENALTIES FOR VIOLATIONS.

5 * * *

6 (C) GAS PIPELINE SAFETY VIOLATIONS.--ANY PERSON OR
7 CORPORATION, DEFINED AS A PUBLIC UTILITY IN THIS PART, WHO
8 VIOLATES ANY PROVISIONS OF THIS PART GOVERNING THE SAFETY OF
9 PIPELINE OR CONDUIT FACILITIES IN THE TRANSPORTATION OF NATURAL
10 GAS, FLAMMABLE GAS, OR GAS WHICH IS TOXIC OR CORROSIVE, OR OF
11 ANY REGULATION OR ORDER ISSUED THEREUNDER, SHALL BE SUBJECT TO A
12 CIVIL PENALTY OF NOT TO EXCEED [\$10,000] \$200,000 FOR EACH
13 VIOLATION FOR EACH DAY THAT THE VIOLATION PERSISTS, EXCEPT THAT
14 THE MAXIMUM CIVIL PENALTY SHALL NOT EXCEED [\$500,000] \$2,000,000
15 FOR ANY RELATED SERIES OF VIOLATIONS, OR SUBJECT TO A PENALTY
16 PROVIDED UNDER FEDERAL PIPELINE SAFETY LAWS, WHICHEVER IS
17 GREATER.

18 * * *

19 SECTION 8. THIS ACT SHALL TAKE EFFECT IN 60 DAYS.